

**INFORMATION TO OFFERORS OR QUOTERS
SECTION A - COVER SHEET**

*Form Approved
OMB No. 9000-0002
Expires Oct 31, 2001*

The public reporting burden for this collection of information is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (9000-0002), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person will be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE ADDRESS IN BLOCK 4 BELOW.

1. SOLICITATION NUMBER DACW49-03-B-0012	2. (X one)	3. DATE/TIME RESPONSE DUE 3:00pm 4/22/03
	<input checked="" type="checkbox"/> a. INVITATION FOR BID (IFB)	
	<input type="checkbox"/> b. REQUEST FOR PROPOSAL (RFP)	
	<input type="checkbox"/> c. REQUEST FOR QUOTATION (RFQ)	

INSTRUCTIONS

NOTE: The provision entitled "Required Central Contractor Registration" applies to most solicitations.

1. If you are not submitting a response, complete the information in Blocks 9 through 11 and return to the issuing office in Block 4 unless a different return address is indicated in Block 7.
2. Offerors or quoters must include full, accurate, and complete information in their responses as required by this solicitation (including attachments). "Fill-ins" are provided on Standard Form 18, Standard Form 33, and other solicitation documents. Examine the entire solicitation carefully. The penalty for making false statements is prescribed in 18 U.S.C. 1001.
3. Offerors or quoters must plainly mark their responses with the Solicitation Number and the date and local time for bid opening or receipt of proposals that is in the solicitation document.
4. Information regarding the timeliness of response is addressed in the provision of this solicitation entitled either "Late Submissions, Modifications, and Withdrawals of Bids" or "Instructions to Offerors - Competitive Acquisition".

4. ISSUING OFFICE (Complete mailing address, including ZIP Code) Department of the Army US Army Corps of Engineers 1776 Niagara Street Buffalo, NY 14207-3199	5. ITEMS TO BE PURCHASED (Brief description) IDIQ to perform drilling and laboratory (soils/rock) testing for various projects including both conventional and environmental (HTRW) drilling. Laboratory testing for this contract only includes geotechnical testing and does not include environmental testing (chemical analysis of soil and water).
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6. PROCUREMENT INFORMATION (X and complete as applicable)	
<input type="checkbox"/> a. THIS PROCUREMENT IS UNRESTRICTED	
<input checked="" type="checkbox"/> b. THIS PROCUREMENT IS <u>100</u> % SET-ASIDE FOR SMALL BUSINESS. THE APPLICABLE NAICS CODE IS: <u>541330</u>	
<input type="checkbox"/> c. THIS PROCUREMENT IS _____ % SET-ASIDE FOR HUB ZONE CONCERNS. THE APPLICABLE NAICS CODE IS: _____	
<input type="checkbox"/> d. THIS PROCUREMENT IS RESTRICTED TO FIRMS ELIGIBLE UNDER SECTION 8(a) OF THE SMALL BUSINESS ACT.	

7. ADDITIONAL INFORMATION

8. POINT OF CONTACT FOR INFORMATION	
a. NAME (Last, First, Middle Initial) MCMULLEN, Lorraine L.	b. ADDRESS (Include Zip Code) US Army Corps of Engineers Buffalo District 1776 Niagara Street Buffalo NY 14207-3199
c. TELEPHONE NUMBER (Include Area Code and Extension) (716) 879-4249	d. E-MAIL ADDRESS lorraine.l.mcmullen@usace.army.mil

9. REASONS FOR NO RESPONSE (X all that apply)	
<input type="checkbox"/> a. CANNOT COMPLY WITH SPECIFICATIONS	<input type="checkbox"/> d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
<input type="checkbox"/> b. UNABLE TO IDENTIFY THE ITEM(S)	<input type="checkbox"/> e. OTHER (Specify)
<input type="checkbox"/> c. CANNOT MEET DELIVERY REQUIREMENT	

10. MAILING LIST INFORMATION (X one)	
WE <input type="checkbox"/> DO <input type="checkbox"/> DO NOT DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE INVOLVED.	
11a. COMPANY NAME	b. ADDRESS (Include Zip Code)
c. ACTION OFFICER	
(1) TYPED OR PRINTED NAME (Last, First, Middle Initial)	(2) TITLE
(3) SIGNATURE	(4) DATE SIGNED (YYYYMMDD)

FOLD

FOLD

FROM US Army Corps of Engineers, Buffalo
1776 Niagara Street
Buffalo, NY 14207-3199

AFFIX
STAMP
HERE

SOLICITATION NUMBER	
DACW49-03-B-0012	
DATE (YYYYMMDD)	LOCAL TIME
20030422	3:00PM

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE 1 OF 1 PAGES
2. CONTRACT NUMBER	3. SOLICITATION NUMBER DACW49-03-B-0012	4. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED 03/20/03	6. REQUISITION/PURCHASE NUMBER	
7. ISSUED BY US Army Engineer District, Buffalo 1776 Niagara Street Buffalo, NY 14207-3199		8. ADDRESS OFFER TO (If other than Item 7) Contracting Division, USAED, Buffalo 1776 Niagara Street Buffalo, NY 14207-3199			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 0 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in Contracting Div., Bldg. 1, 1st Floor until 3:00PM local time 04/22/03

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME Lorraine L. McMullen,	B. TELEPHONE (NO COLLECT CALLS) AREA CODE NUMBER EXT. 716 879-4249	C. E-MAIL ADDRESS lorraine.l.mcmullen@us
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11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
<input checked="" type="checkbox"/>	A	SOLICITATION/CONTRACT FORM		<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE		<input checked="" type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE		<input checked="" type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA		<input checked="" type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS					

OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 60 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
15B. TELEPHONE NUMBER AREA CODE NUMBER EXT.			17. SIGNATURE
15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE. <input type="checkbox"/>			18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c)		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ITEM 25	
24. DEPARTMENT OF THE ARMY U.S. ARMY ENGINEER DISTRICT, BUFFALO ATTN: CONTRACTING DIVISION 1776 NIAGARA STREET BUFFALO, NEW YORK 14207		25. PAYMENT WILL BE MADE BY USACE FINANCE CENTER 5720 INTEGRITY DRIVE MILLINGTON, TN 38054-5005	
26. NAME OF CONTRACTING OFFICER (Type or print)		27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	
		28. AWARD DATE	

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is unusable

STANDARD FORM 33 (REV. 9-97)
Prescribed by GSA - FAR (48 CFR) 53.214(c)

GEOTECHNICAL COST ESTIMATE
BASE 2 YEARS
BLANK COST ESTIMATE

B. Drilling Estimate: \$0.00

C. Geotechnical Testing Estimate: \$0.00

TOTAL = -----
\$0.00

PROJECT:
LOCATION:

0
0

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
1.	Mobilization and demobilization of drilling personnel, drill rig equipment and supplies	5,000	mi		\$0.00
2.	Mobilization and demobilization of floating plant Including tug, crew, skiff (launch or motor boat)				
	(a.) 800 SF Floating Plant	4	day		\$0.00
	(b.) 300 SF Floating Plant	4	day		\$0.00
3.	Floating plant for harbor and open lake drilling including tug, crew, skiff, etc. 800 SF working area.	12	day		\$0.00
4.	Floating plant for river and marsh drilling including tug, crew, skiff, etc. 300 SF working area.	12	day		\$0.00
5.	Advancing boring using hollow stem augers or flight augers with casing				
	(a.) casing 4.5-inch I.D. or less	4000	ft		\$0.00
	(b.) casing greater than 4.5-inch I.D. up to 8.5-inch I.D.	10	ft		\$0.00
6.	Advancing boring through obstructions using fishtail, drag bit, or roller rock bit.	10	ft		\$0.00
7.	Standard Penetration Test (ASTM D 1586)				
	(a.) depth of final sampling interval 0' - 30'	1115	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	500	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	8	ea		\$0.00
8.	Standard Penetration Test (ASTM D 1586) using 3.0 inch I.D. X 3.5 inch O.D. split-spoon				
	(a.) depth of final sampling interval 0' - 30'	11	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	5	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	1	ea		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
9.	Undisturbed sample recovery with 3" O.D. thin walled tube (ASTM D 1587)	80	ft		\$0.00
10.	Undisturbed sample recovery with 5" O.D. thin walled tube (ASTM D 1587)	2	ft		\$0.00
11.	Vane shear tests (ASTM D 2573)	10	ea		\$0.00
12.	Test pit excavation and operator				
	(a.) Rubber-tired backhoe or tracked excavator with gross power between 75hp and 125 hp capable of practically excavating to a depth of at least 12 feet, with operator	5	day		\$0.00
	(b.) Hydraulic excavator with flywheel power exceeding 130 hp capable of practically excavating to depths exceeding 15 feet, with operator	2	day		\$0.00
13.	Bulldozer and operator.	3	day		\$0.00
14.	Rock Core Drilling (ASTM D 2113)				
	(a.) N-Size (1.875" minimum core diameter)	125	ft		\$0.00
	(b.) H-Size (2.5" minimum core diameter)	20	ft		\$0.00
	(c.) P-Size (3.345" minimum core diameter)	5	ft		\$0.00
15.	Piezometer Installation (Open tube)	400	ft		\$0.00
16.	Slug tests (ASTM D 4044)	5	hr		\$0.00
17.	Water Purchase for Decontamination or for drilling activities.	250	gal		\$0.00
18.	General equipment decontamination for HTRW work	8	hr		\$0.00
19.	Backfilling holes with bentonite	400	ft		\$0.00
20.	Backfilling holes with cement grout	25	ft		\$0.00
21.	Groundwater Monitoring Well/piezometer Abandonment				
	(a.) < 15 feet	2	ea		\$0.00
	(b.) > 15 feet	3	ea		\$0.00
22.	Drilling platform setup on floating plant	10	hr		\$0.00
23.	Weather related delays (floating plant)				
	(a.) 800 Ft2 floating plant - 1/2 daily rate item No.3	3	day		\$0.00
	(b.) 300 Ft2 floating plant - 1/2 daily rate item No.4	3	day		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
24.	Weather related delays (Drill crew/field logger/drill rig)	8	day		\$0.00
25	Protective Clothing (for HTRW work)				
	(a.) Level A	1	day		\$0.00
	(b.) Level B	1	day		\$0.00
	(c.) Level C	7	day		\$0.00
26	NICET Certified Soils Technician, including equipment, for in-place density and moisture testing in accordance with ASTM D 2922 and D 3017	4	hr		\$0.00
27	Technician for miscellaneous field work	10	hr		\$0.00
28.	Field In Place CBR Test - Reaction Load Supplied By Others (ASTM D 4429)	1	ea		\$0.00
29.	Field In Place CBR Test - Reaction Load Supplied By Contractor (ASTM D 4429)	1	ea		\$0.00
30.	Mobilization and Demobilization of field technicians	500	mi		\$0.00
31.	Prepare Drilling and Testing Report	10	ea		\$0.00

TOTAL = \$0.00

PROJECT:
LOCATION:

0
0

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
32.	Visual Classification (ASTM D2488)	5	ea		\$0.00
33.	Moisture Content (ASTM D2216-92)	8	ea		\$0.00
34.	Organic Content (ASTM D 2974)	10	ea		\$0.00
35.	Soil Classification (ASTM D 2487)				
	a) less than 5% fines estimated (sieve analysis)	22	ea		\$0.00
	b) 5% to 89% fines estimated (sieve & Atterberg limits)	100	ea		\$0.00
	c) 90% or more fines estimated (Atterberg limits)	118	ea		\$0.00
36.	Hydrometer Analysis (ASTM D422)	10	ea		\$0.00
37	Specific Gravity (ASTM D854-92)	60	ea		\$0.00
38	Triaxial Compression Q Test, Unconsolidated Undrained, <i>undisturbed</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	30	ea		\$0.00
39	Triaxial Compression Q Test, Unconsolidated Undrained, <i>compacted</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	5	ea		\$0.00
40	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>undisturbed</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	12	ea		\$0.00
41	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>compacted</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	5	ea		\$0.00

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
42	Unconfined Compression Test (ASTM D 2166), <i>undisturbed</i> , 1 sample includes sample classification (ASTM D 2487)	10	ea		\$0.00
43	Unconfined Compression Test (ASTM D 2166), <i>compacted</i> , 1 sample includes sample classification (ASTM D 2487)	1			\$0.00
44	Consolidation Test, including deformation vs time and e vs log p plots, (ASTM D2435-80) includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216 (a.) through 32 TSF loading	12	ea		\$0.00
	(b.) Rebound testing at specified load decrements	12	ea load		\$0.00
45	Permeability Test: Falling Head, <i>undisturbed</i> with back pressure saturation (ASTM D5084) includes sample classification (ASTM D 2487)	3	ea		\$0.00
46	Permeability Test: Falling Head, <i>compacted</i> sample, with back pressure saturation, (ASTM D5084) includes sample classification (ASTM D 2487)	3	ea		\$0.00
47	Permeability Test: Constant Head, <i>compacted</i> sample, (ASTM D 2434)	1	ea		\$0.00
48	Compaction Test (5 points) includes sample classification (ASTM D 2487)				
	(a.)Standard (4" Mold),ASTM D698-91	2	ea		\$0.00
	(b.)Standard (6" Mold),ASTM D698-91	1	ea		\$0.00
	(c.)Modified (4" Mold),ASTM D1557-91	2	ea		\$0.00
	(d.)Modified (6" Mold),ASTM D1557-91	1	ea		\$0.00

LABORATORY ROCK MECHANICS AND CONCRETE TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
49	Unconfined Compression Test, (ASTM D 2938-86)	4	ea		\$0.00
50	Elastic Moduli of intact rock core specimens under uniaxial compression (ASTM D3148-86)	1	ea		\$0.00
51	Laboratory Compacted CBR Test (ASTM D 1883)	1	ea		\$0.00
52	Unconfined compression test, (ASTM C 39), 1 sample	2	ea		\$0.00

TOTAL \$0.00

**GEOTECHNICAL COST ESTIMATE
1ST OPTION YEAR
BLANK COST ESTIMATE**

A. Drilling Estimate: \$0.00

B. Geotechnical Testing Estimate: \$0.00

TOTAL = -----
\$0.00

PROJECT:
LOCATION:

0
0

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
1.	Mobilization and demobilization of drilling personnel, drill rig equipment and supplies	2,500	mi		\$0.00
2.	Mobilization and demobilization of floating plant Including tug, crew, skiff (launch or motor boat)				
	(a.) 800 SF Floating Plant	2	day		\$0.00
	(b.) 300 SF Floating Plant	2	day		\$0.00
3.	Floating plant for harbor and open lake drilling including tug, crew, skiff, etc. 800 SF working area.	6	day		\$0.00
4.	Floating plant for river and marsh drilling including tug, crew, skiff, etc. 300 SF working area.	6	day		\$0.00
5.	Advancing boring using hollow stem augers or flight augers with casing				
	(a.) casing 4.5-inch I.D. or less	2000	ft		\$0.00
	(b.) casing greater than 4.5-inch I.D. up to 8.5-inch I.D.	5	ft		\$0.00
6.	Advancing boring through obstructions using fishtail, drag bit, or roller rock bit.	5	ft		\$0.00
7.	Standard Penetration Test (ASTM D 1586)				
	(a.) depth of final sampling interval 0' - 30'	558	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	250	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	4	ea		\$0.00
8.	Standard Penetration Test (ASTM D 1586) using 3.0 inch I.D. X 3.5 inch O.D. split-spoon				
	(a.) depth of final sampling interval 0' - 30'	6	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	3	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	1	ea		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
9.	Undisturbed sample recovery with 3" O.D. thin walled tube (ASTM D 1587)	40	ft		\$0.00
10.	Undisturbed sample recovery with 5" O.D. thin walled tube (ASTM D 1587)	1	ft		\$0.00
11.	Vane shear tests (ASTM D 2573)	5	ea		\$0.00
12.	Test pit excavation and operator				
	(a.) Rubber-tired backhoe or tracked excavator with gross power between 75hp and 125 hp capable of practically excavating to a depth of at least 12 feet, with operator	3	day		\$0.00
	(b.) Hydraulic excavator with flywheel power exceeding 130 hp capable of practically excavating to depths exceeding 15 feet, with operator	1	day		\$0.00
13.	Bulldozer and operator.	2	day		\$0.00
14.	Rock Core Drilling (ASTM D 2113)				
	(a.) N-Size (1.875" minimum core diameter)	63	ft		\$0.00
	(b.) H-Size (2.5" minimum core diameter)	10	ft		\$0.00
	(c.) P-Size (3.345" minimum core diameter)	3	ft		\$0.00
15.	Piezometer Installation (Open tube)	200	ft		\$0.00
16.	Slug tests (ASTM D 4044)	3	hr		\$0.00
17.	Water Purchase for Decontamination or for drilling activities.	125	gal		\$0.00
18.	General equipment decontamination for HTRW work	4	hr		\$0.00
19.	Backfilling holes with bentonite	200	ft		\$0.00
20.	Backfilling holes with cement grout	12	ft		\$0.00
21.	Groundwater Monitoring Well/piezometer Abandonment				
	(a.) < 15 feet	1	ea		\$0.00
	(b.) > 15 feet	2	ea		\$0.00
22.	Drilling platform setup on floating plant	5	hr		\$0.00
23.	Weather related delays (floating plant)				
	(a.) 800 Ft2 floating plant - 1/2 daily rate item No.3	2	day		\$0.00
	(b.) 300 Ft2 floating plant - 1/2 daily rate item No.4	2	day		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
24.	Weather related delays (Drill crew/field logger/drill rig)	4	day		\$0.00
25	Protective Clothing (for HTRW work)				
	(a.) Level A	1	day		\$0.00
	(b.) Level B	1	day		\$0.00
	(c.) Level C	4	day		\$0.00
26	NICET Certified Soils Technician, including equipment, for in-place density and moisture testing in accordance with ASTM D 2922 and D 3017	2	hr		\$0.00
27	Technician for miscellaneous field work	5	hr		\$0.00
28.	Field In Place CBR Test - Reaction Load Supplied By Others (ASTM D 4429)	1	ea		\$0.00
29.	Field In Place CBR Test - Reaction Load Supplied By Contractor (ASTM D 4429)	1	ea		\$0.00
30.	Mobilization and Demobilization of field technicians	250	mi		\$0.00
31.	Prepare Drilling and Testing Report	5	ea		\$0.00

TOTAL = \$0.00

PROJECT:
LOCATION:

0
0

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
32.	Visual Classification (ASTM D2488)	3	ea		\$0.00
33.	Moisture Content (ASTM D2216-92)	4	ea		\$0.00
34.	Organic Content (ASTM D 2974)	5	ea		\$0.00
35.	Soil Classification (ASTM D 2487)				
	a) less than 5% fines estimated (sieve analysis)	11	ea		\$0.00
	b) 5% to 89% fines estimated (sieve & Atterberg limits)	50	ea		\$0.00
	c) 90% or more fines estimated (Atterberg limits)	59	ea		\$0.00
36.	Hydrometer Analysis (ASTM D422)	5	ea		\$0.00
37	Specific Gravity (ASTM D854-92)	30	ea		\$0.00
38	Triaxial Compression Q Test, Unconsolidated Undrained, <i>undisturbed</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	15	ea		\$0.00
39	Triaxial Compression Q Test, Unconsolidated Undrained, <i>compacted</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	3	ea		\$0.00
40	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>undisturbed</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	6	ea		\$0.00
41	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>compacted</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	3	ea		\$0.00

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
42	Unconfined Compression Test (ASTM D 2166), <i>undisturbed</i> , 1 sample includes sample classification (ASTM D 2487)	5	ea		\$0.00
43	Unconfined Compression Test (ASTM D 2166), <i>compacted</i> , 1 sample includes sample classification (ASTM D 2487)	1			\$0.00
44	Consolidation Test, including deformation vs time and e vs log p plots, (ASTM D2435-80) includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216 (a.) through 32 TSF loading	6	ea		\$0.00
	(b.) Rebound testing at specified load decrements	6	ea load		\$0.00
45	Permeability Test: Falling Head, <i>undisturbed</i> with back pressure saturation (ASTM D5084) includes sample classification (ASTM D 2487)	2	ea		\$0.00
46	Permeability Test: Falling Head, <i>compacted</i> sample, with back pressure saturation, (ASTM D5084) includes sample classification (ASTM D 2487)	2	ea		\$0.00
47	Permeability Test: Constant Head, <i>compacted</i> sample, (ASTM D 2434)	1	ea		\$0.00
48	Compaction Test (5 points) includes sample classification (ASTM D 2487) (a.)Standard (4" Mold),ASTM D698-91	2	ea		\$0.00
	(b.)Standard (6" Mold),ASTM D698-91	1	ea		\$0.00
	(c.)Modified (4" Mold),ASTM D1557-91	2	ea		\$0.00
	(d.)Modified (6" Mold),ASTM D1557-91	1	ea		\$0.00

LABORATORY ROCK MECHANICS AND CONCRETE TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
49	Unconfined Compression Test, (ASTM D 2938-86)	2	ea		\$0.00
50	Elastic Moduli of intact rock core specimens under uniaxial compression (ASTM D3148-86)	1	ea		\$0.00
51	Laboratory Compacted CBR Test (ASTM D 1883)	1	ea		\$0.00
52	Unconfined compression test, (ASTM C 39), 1 sample	2	ea		\$0.00

TOTAL \$0.00

**GEOTECHNICAL COST ESTIMATE
OPTION YEAR 2
BLANK COST ESTIMATE**

A. Drilling Estimate: \$0.00

B. Geotechnical Testing Estimate: \$0.00

TOTAL = \$0.00

PROJECT:
LOCATION:

0
0

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
1.	Mobilization and demobilization of drilling personnel, drill rig equipment and supplies	2,500	mi		\$0.00
2.	Mobilization and demobilization of floating plant Including tug, crew, skiff (launch or motor boat)				
	(a.) 800 SF Floating Plant	2	day		\$0.00
	(b.) 300 SF Floating Plant	2	day		\$0.00
3.	Floating plant for harbor and open lake drilling including tug, crew, skiff, etc. 800 SF working area.	6	day		\$0.00
4.	Floating plant for river and marsh drilling including tug, crew, skiff, etc. 300 SF working area.	6	day		\$0.00
5.	Advancing boring using hollow stem augers or flight augers with casing				
	(a.) casing 4.5-inch I.D. or less	2000	ft		\$0.00
	(b.) casing greater than 4.5-inch I.D. up to 8.5-inch I.D.	5	ft		\$0.00
6.	Advancing boring through obstructions using fishtail, drag bit, or roller rock bit.	5	ft		\$0.00
7.	Standard Penetration Test (ASTM D 1586)				
	(a.) depth of final sampling interval 0' - 30'	558	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	250	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	4	ea		\$0.00
8.	Standard Penetration Test (ASTM D 1586) using 3.0 inch I.D. X 3.5 inch O.D. split-spoon				
	(a.) depth of final sampling interval 0' - 30'	6	ea		\$0.00
	(b.) depth of final sampling interval 30' - 70'	3	ea		\$0.00
	(c.) depth of final sampling interval 70' - 100'	1	ea		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
9.	Undisturbed sample recovery with 3" O.D. thin walled tube (ASTM D 1587)	40	ft		\$0.00
10.	Undisturbed sample recovery with 5" O.D. thin walled tube (ASTM D 1587)	1	ft		\$0.00
11.	Vane shear tests (ASTM D 2573)	5	ea		\$0.00
12.	Test pit excavation and operator				
	(a.) Rubber-tired backhoe or tracked excavator with gross power between 75hp and 125 hp capable of practically excavating to a depth of at least 12 feet, with operator	3	day		\$0.00
	(b.) Hydraulic excavator with flywheel power exceeding 130 hp capable of practically excavating to depths exceeding 15 feet, with operator	1	day		\$0.00
13.	Bulldozer and operator.	2	day		\$0.00
14.	Rock Core Drilling (ASTM D 2113)				
	(a.) N-Size (1.875" minimum core diameter)	63	ft		\$0.00
	(b.) H-Size (2.5" minimum core diameter)	10	ft		\$0.00
	(c.) P-Size (3.345" minimum core diameter)	3	ft		\$0.00
15.	Piezometer Installation (Open tube)	200	ft		\$0.00
16.	Slug tests (ASTM D 4044)	3	hr		\$0.00
17.	Water Purchase for Decontamination or for drilling activities.	125	gal		\$0.00
18.	General equipment decontamination for HTRW work	4	hr		\$0.00
19.	Backfilling holes with bentonite	200	ft		\$0.00
20.	Backfilling holes with cement grout	12	ft		\$0.00
21.	Groundwater Monitoring Well/piezometer Abandonment				
	(a.) < 15 feet	1	ea		\$0.00
	(b.) > 15 feet	2	ea		\$0.00
22.	Drilling platform setup on floating plant	5	hr		\$0.00
23.	Weather related delays (floating plant)				
	(a.)800 Ft2 floating plant - 1/2 daily rate item No.3	2	day		\$0.00
	(b.)300 Ft2 floating plant - 1/2 daily rate item No.4	2	day		\$0.00

OPEN END DRILLING CONTRACT

Item No.	Description	Est Quantity	Unit	Unit Price	Total
24.	Weather related delays (Drill crew/field logger/drill rig)	4	day		\$0.00
25	Protective Clothing (for HTRW work)				
	(a.) Level A	1	day		\$0.00
	(b.) Level B	1	day		\$0.00
	(c.) Level C	4	day		\$0.00
26	NICET Certified Soils Technician, including equipment, for in-place density and moisture testing in accordance with ASTM D 2922 and D 3017	2	hr		\$0.00
27	Technician for miscellaneous field work	5	hr		\$0.00
28.	Field In Place CBR Test - Reaction Load Supplied By Others (ASTM D 4429)	1	ea		\$0.00
29.	Field In Place CBR Test - Reaction Load Supplied By Contractor (ASTM D 4429)	1	ea		\$0.00
30.	Mobilization and Demobilization of field technicians	250	mi		\$0.00
31.	Prepare Drilling and Testing Report	5	ea		\$0.00

TOTAL = \$0.00

PROJECT:
LOCATION:

0
0

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
32.	Visual Classification (ASTM D2488)	3	ea		\$0.00
33.	Moisture Content (ASTM D2216-92)	4	ea		\$0.00
34.	Organic Content (ASTM D 2974)	5	ea		\$0.00
35.	Soil Classification (ASTM D 2487)				
	a) less than 5% fines estimated (sieve analysis)	11	ea		\$0.00
	b) 5% to 89% fines estimated (sieve & Atterberg limits)	50	ea		\$0.00
	c) 90% or more fines estimated (Atterberg limits)	59	ea		\$0.00
36.	Hydrometer Analysis (ASTM D422)	5	ea		\$0.00
37	Specific Gravity (ASTM D854-92)	30	ea		\$0.00
38	Triaxial Compression Q Test, Unconsolidated Undrained, <i>undisturbed</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	15	ea		\$0.00
39	Triaxial Compression Q Test, Unconsolidated Undrained, <i>compacted</i> , (ASTM D2850-82) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	3	ea		\$0.00
40	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>undisturbed</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	6	ea		\$0.00
41	Triaxial R-Bar, Consolidated Undrained, total and effective strength plots, <i>compacted</i> , (ASTM D4767) includes three test specimens includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216	3	ea		\$0.00

LABORATORY SOILS TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
42	Unconfined Compression Test (ASTM D 2166), <i>undisturbed</i> , 1 sample includes sample classification (ASTM D 2487)	5	ea		\$0.00
43	Unconfined Compression Test (ASTM D 2166), <i>compacted</i> , 1 sample includes sample classification (ASTM D 2487)	1			\$0.00
44	Consolidation Test, including deformation vs time and e vs log p plots, (ASTM D2435-80) includes sample classification (ASTM D 2487) includes ASTM D 854 and ASTM D 2216 (a.) through 32 TSF loading	6	ea		\$0.00
	(b.) Rebound testing at specified load decrements	6	ea load		\$0.00
45	Permeability Test: Falling Head, <i>undisturbed</i> with back pressure saturation (ASTM D5084) includes sample classification (ASTM D 2487)	2	ea		\$0.00
46	Permeability Test: Falling Head, <i>compacted</i> sample, with back pressure saturation, (ASTM D5084) includes sample classification (ASTM D 2487)	2	ea		\$0.00
47	Permeability Test: Constant Head, <i>compacted</i> sample, (ASTM D 2434)	1	ea		\$0.00
48	Compaction Test (5 points) includes sample classification (ASTM D 2487)				
	(a.)Standard (4" Mold),ASTM D698-91	2	ea		\$0.00
	(b.)Standard (6" Mold),ASTM D698-91	1	ea		\$0.00
	(c.)Modified (4" Mold),ASTM D1557-91	2	ea		\$0.00
	(d.)Modified (6" Mold),ASTM D1557-91	1	ea		\$0.00

LABORATORY ROCK MECHANICS AND CONCRETE TESTS

Item No.	Description	Est Quantity	Unit	Unit Price	Total
49	Unconfined Compression Test, (ASTM D 2938-86)	2	ea		\$0.00
50	Elastic Moduli of intact rock core specimens under uniaxial compression (ASTM D3148-86)	1	ea		\$0.00
51	Laboratory Compacted CBR Test (ASTM D 1883)	1	ea		\$0.00
52	Unconfined compression test, (ASTM C 39), 1 sample	2	ea		\$0.00

TOTAL **\$0.00**

SECTION C
SCOPE OF WORK

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1. SCOPE OF WORK

1.1 The Contractor shall furnish drill rigs complete with all personnel, plant, equipment, transportation, and materials necessary to drill, sample and document the type, nature, and characteristics of subsurface materials. This may be accomplished by augering, drive sampling (split spoon), undisturbed sampling, vane shear testing, test pits, rock core drilling, pressure testing, grab samples, sediment grab samples, groundwater monitoring well installation, piezometer installation, field permeability tests, and concrete coring. Both land and water drilling, sampling and field testing may be required at any time of the year. Drilling, sampling, and field testing in marshes, streams, rivers, harbors, open lake, flat terrain (open or wooded), and hilly terrain (open or wooded) may be required. Typical drilling, sampling and field testing of depths of up to 100 feet on land and up to 100 feet below lake, river, or marsh bottom in up to 40 foot of water depth may be required. The subsurface explorations may be performed at sites where hazardous wastes could be encountered.

1.2 The Contractor shall furnish services specified above when ordered in writing by the Contracting Officer hereinafter referred to as the C.O. The C.O. shall contact the Contractor to describe the primary details of each Delivery Order, including but not limited to: location of work; date when work is needed; number and type of subsurface explorations; and approximate anticipated maximum depth of explorations.

1.3 Work shall not commence until the items listed in paragraph 9.1. Have been submitted by the Contractor and have been received and approved by the C.O. After review and approval of the items listed in paragraph 9.1, the C.O. will issue a Notice to Proceed for the supplies and services required.

1.4 Prior to the commencement of each Delivery Order, the Contractor shall contact the C.O.'s Geotechnical advisor to discuss the Delivery Order, ensure that all of the submittals listed in paragraph 9.1 have been approved by the C.O., and to inform the C.O. when work will commence.

1.5 Work shall be performed to ensure accuracy, quality, completeness, and timely progress of work.

1.6 The Government reserves the right to increase or decrease the amount of services being furnished under any Delivery Order, or to discontinue the services of any or all items furnished under any Delivery Order as may be deemed necessary by the C.O.

1.7 The Government makes no warranty as to the total amount of services to be required.

1.8 All laboratories where laboratory testing will be performed shall have and maintain AASHTO accreditation which demonstrates compliance with AASHTO R18 and ASTM D3740 for the following ASTM test procedures: D421, D422, D4318, D427, D698, D854, D2217, D1557, D1883, D2166, D2434, D2435, D3080, D2216, D2850, D4767, D2922, D3017, D2487, D2488, and D5084.

2. APPLICABLE PUBLICATIONS

Standards referenced within this document or within individual delivery orders are a part of this specification

3. LOCATION OF WORK

It is anticipated that all subsurface drilling, sampling and field-testing will be performed within the Buffalo District geographical boundary (See Figure 1 attached). However, drilling services may be required outside the district boundary but within the Great Lakes and Ohio River Division boundary (See Figure 1) in which case the drilling item unit prices will be negotiated for each individual delivery order.

4. PAYMENT

Payment of services for the quantities requested, will be made at the contract unit price as listed in Section B, "Supplies or Services and Prices/Costs".

5. LOCATION OF BORINGS AND ORDER OF WORK

The approximate locations for explorations will be specified for each Delivery Order. Locations may be altered as necessary with approval from the C.O. If necessary, the order in which the work is to be performed may be specified by the C.O for the Delivery Order.

6. REAL ESTATE

Rights of entry on private property will be obtained when necessary. The Contractor or Government will obtain the rights of entry prior to issuance of any delivery order as required. If the Contractor obtains rights of entry, the rights of

entry form shall be submitted to the government prior to commencement of work on any delivery order. The Contractor will abide by the provisions of said rights of entry and will be responsible for any property damages.

7. GOVERNMENT FURNISHED ITEMS

The C.O. shall furnish a Scope of Work for each Delivery Order.

8. CONTRACTOR FURNISHED ITEMS

8.1 The Contractor shall furnish drill rigs, crew, field logger, and all necessary accessories to perform the work. The drill rig shall conform to all safety requirements established by the US Army Corps of Engineers "Safety and Health Requirements Manual", EM 385-1-1. Drill rigs shall be of suitable size for the work to be performed. All drill rigs shall be hydraulic feed and must contain working and accurate/certified gauges to water and hydraulic pressures as necessary.

8.2 For river/lake drilling, in addition to the items discussed in the paragraph above, the Contractor shall furnish an appropriate sized drilling barge for both exposed and protected river/lake environments. The drilling barge shall be either self-propelled or towed by a Contractor's boat. When required, the Contractor shall be responsible for supplying all personnel, equipment and permits to operate the towboat and drilling barge. Additional items such as, launching and docking areas, skiffs, motors and two-way radios to be available for emergency use are the responsibility of the contractor.

8.3 For geotechnical drilling at HTRW sites, in addition to the items discussed in paragraphs 8.1 and 8.2 above the Contractor shall provide all personnel involved in the work with protective clothing as required in the site "Health and Safety Plan". These items may include but are not limited to tyvek suits, boots, respirators, gloves, and SCBA tanks, duct tape, etc. The Contractor shall provide all decontamination equipment and supplies required for the drilling and sampling at the work site. In addition, if required, the Contractor shall provide two-way radios inside and outside the exclusion zone for emergency purposes.

8.4 The Contractor shall furnish jars with moisture-proof lids, cartons, tape, tubes, bags, foil, wax, and boxes meeting the requirements as specified in sections 18 and 19. All such containers will become the property of the Government and the cost thereof shall be included in the contract price for the applicable item for which payment is provided.

9. SUBMITTALS

9.1 Within ten (10) days after receipt of the Delivery Order the Contractor shall submit to the C.O. for approval the following information:

- Contractor's plan of operations including a complete description of equipment to be used for drilling.
- The Contractor's Accident Prevention Plan. The accident prevention plan shall abide by the provisions contained in EM 385-1-1 Safety Manual (1992). The accident prevention plan shall be submitted in a separate document from all other required submittals.
- Traffic Control Plan when drilling operations interfere with traffic on local, state or federal highways, roads or, streets. The traffic control plan shall adhere to local and state and federal requirements for traffic control including barricades, flagmen and, warning signs.
- A resume of the field logger(s) who will be working under this contract and who will log subsurface explorations for the Delivery Order.
- Approximate date for start of work.
- Provisions for protection of samples.
- When instrumentation is required to be installed the Contractor shall submit technical data sheets, manufacturer's brochures, and certificates of compliance that state that the materials meet the requirements of the specifications contained herein.

Work shall not proceed until the Contractor's submittals have been approved by the C.O.

9.2 For geotechnical drilling at HTRW sites the Contractor may be required to develop a Site Specific Health and Safety Plan (which includes chemical hazards) for a Delivery Order. If required, compensation for the Health and Safety Plan will be negotiated. The C.O. in advance of work will notify the Contractor whether a Health and Safety Plan will be required for the Delivery Order. In some instances, another Contractor or the Corps may have already developed a Health and Safety Plan (which includes chemical hazards). In this case the Contractor will be required to abide by the existing Site Specific Health and Safety Plan.

9.3 As a condition for final award of this contract, the Contractor shall

submit in writing a resume of his firm to include the following specific information:

- Name of firm.
 - Point of origin for supplies and personnel.
 - Resumes of personnel proposed for use as the field logger . Subsequent use of a field logger for whom a resume has not been submitted will require the approval of the C.O.
 - 8” x 10” photographs or digital computer image of required drilling equipment.
 - Resume of previous work performed within the past three years which demonstrates the Contractor’s competency in performing the type of work required for the contract.
 - Summary of the capabilities of the firm pertaining to the requirements specified by this contract, including methodology and equipment for both conventional and HTRW Sites.
-
- AASHTO accreditation certificates demonstrating compliance with AASHTO R18 and ASTM D3740 for the following ASTM test procedures: D421, D422, D4318, D427, D698, D854, D2217, D1557, D1883, D2166, D2434, D2435, D3080, D2216, D2850, D4767, D2922, D3017, D2487, D2488, and D5084.
-
- Resumes of supervisory personnel who will be responsible for ensuring work is completed in accordance with each Delivery Order and these specifications.
 - Technical data sheets, manufacturer’s brochures, and/or other literature which demonstrate the capabilities of the Contractor’s GPS survey equipment to meet the survey tolerances specified herein.

Approval of the submitted information by the C.O. is required for final award of this contract.

10. MOBILIZATION AND DEMOBILIZATION

10.1 Mobilization.

Mobilization shall consist of the delivery to the work site all plant, equipment, materials, supplies, and field personnel to be furnished by the Contractor and the complete assembly of all such plant and equipment, in satisfactory working order. For river/lake drilling, in addition to the above,

mobilization shall consist of delivery to the drill site the floating plant, tow boat, launch (skiff or motor boat) and supporting personnel.

10.2 Demobilization.

Demobilization shall consist of the removal from the site all plant, equipment, materials, supplies and, field personnel after completion of the work and cleanup of the site. For river/lake drilling, in addition to the above, demobilization shall consist of the removal from the drill site of the floating plant, tow boat, launch (skiff or motor boat) and supporting personnel.

11. CLEANUP OF WORK AREA

Cleanup shall consist of the removal from the site and temporary storage areas all debris resulting from the Contractor's operation. It also includes restoration of the site to its original condition.

12. SURVEYS

12.1 Land Work

As a minimum, horizontal locations of borings shall be determined by taping distances from permanent reference marks and supplemented with the use of handheld GPS equipment. Taped horizontal locations shall be determined within a tolerance of ± 1.0 feet. Horizontal locations determined by GPS shall be within a tolerance of ± 10.0 feet. Vertical locations shall be measured within a tolerance of ± 0.1 feet. GPS coordinates shall be converted to State Plane Coordinates. When requested by the delivery order, the Contractor may be required to determine horizontal and vertical locations for borings using more precise GPS equipment and/or using a licensed surveyor. If the services of a licensed surveyor and/or more precise GPS equipment are required, the cost of survey will be negotiated for the individual delivery order. If the use of more precise GPS equipment is required, it should be capable of meeting the following tolerances.

Vertical: **0.005m + 1 ppm (Static)**
 0.012m + 2.5 ppm (kinematic)

Horizontal: **0.012m + 2 ppm (Static)**
 0.015m + 2.5ppm (kinematic)

12.2 River/Lake Drilling

As a minimum, horizontal locations of borings shall be determined using handheld GPS equipment. Horizontal locations determined by GPS shall be within a tolerance of ± 10.0 feet. Vertical locations shall be measured within a tolerance of ± 0.1 feet. GPS coordinates shall be converted to State Plane Coordinates. When requested by the delivery order, the Contractor may be required to determine horizontal and vertical locations for borings using more precise GPS equipment and/or using a licensed surveyor. If the services of a licensed surveyor and/or more precise GPS equipment are required, the cost of survey will be negotiated for the individual delivery order. If the use of more precise GPS equipment is required, it should be capable of meeting the following tolerances.

Vertical: **0.005m + 1 ppm (Static)**
 0.012m + 2.5 ppm (kinematic)

Horizontal: **0.012m + 2 ppm (Static)**
 0.015m + 2.5ppm (kinematic)

13. RECORDS

The Contractor shall prepare and maintain all documentation of the subsurface explorations for each Delivery Order. Logging of borings shall be performed according to the provisions of this contract. All records shall be complete, accurate, and neat. All original records shall be forwarded to the Chief, Coastal/Geotechnical Section, Department of the Army, U.S. Army Engineer District, Buffalo, 1776 Niagara Street; Buffalo, NY 14207.

The following documentation is required:

- Original logs of borings, probings and, test pits.
- Daily log of work, including equipment, personnel, progress, weather conditions, and other pertinent information. The time at which each exploration (boring, test pit, etc.) begins and ends shall be included.
- Inventory of samples (box number, sample number).
- Boring locations and Survey information.

14. DEPTH MEASUREMENTS FOR BORINGS

14.1 All measurements involving the depth of the boring and samples shall be measured to the nearest 0.1-foot. A weighted surveyor's chain, weighted steel tape,

or drill rods shall be used to measure the bore hole depth. Cloth metallic tapes shall not be used to tape check borehole depths.

14.2 The initial depth will be entered in the drilling log as 0.0 and shall correspond to the ground surface elevation for land work or the top of the barge deck for marine work. All subsequent measurements shall be in tenth (0.1) of a foot. Measurements shall not be made in inches.

15. SUPERVISION

The contractor shall employ supervisory personnel who will be responsible for ensuring work is completed in accordance with each Delivery Order and these specifications. The supervisory personnel shall have thorough experience of all drilling techniques and equipment to be used on this contract.

16. DRILLING AND SAMPLING PERSONNEL

The Contractor shall employ only experienced and competent drillers for this contract. They shall have a thorough and working knowledge of all drilling and sampling techniques to be used in this work.

17. FIELD LOGGER

The Contractor shall employ an experienced and competent field logger to log and sample the material at the time of drilling and/or test pit excavation. A detailed resume of the individual(s) proposed by the Contractor is required. The field logger must have a minimum of 2 years of field logging experience and a bachelors degree with a major which included at least one semester of coursework in geology and/or soil mechanics. The field logger must have a working knowledge of the Unified Soils Classification System. Drilling and sampling shall not start until the field logger submittal requirements have been approved by the C.O. Only approved individuals may perform the work therein.

18. OVERBURDEN DRILLING AND SAMPLING REQUIREMENTS

18.1 Advancing Holes.

Borings may be advanced using hollow-stem augers or continuous flight augers/other suitable methods with casing. Borings may be advanced through obstructions using roller rock bits or coring methods.

18.1.1 Advancing Holes Using Augers.

Augers must be of appropriate size in order to accommodate the required size of sampler. Augers may be helical, bucket, or hollow-stem. In general, continuous flight augers will be used to advance the boring to the depth where undisturbed sampling is required. Generally, jar and/or bag samples will be required for each material change and/or every 5 feet of depth.

18.1.2 Advancing Holes Through Obstructions Using Roller Rock Bits or Coring Methods.

Appropriately sized roller rock bits may be used to advance borings when obstructions or when questionable refusal has been encountered. The selection of the proper tool shall be the responsibility of the Contractor. The specified augering or sampling technique shall resume immediately after the obstruction has been removed.

18.2 Supplementary Holes.

Holes that are abandoned before reaching the specified or required depth due to unsatisfactory techniques or mechanical failure of the drilling equipment shall be supplemented by another hole adjacent to the original hole at no additional cost to the Government. Holes from which satisfactory samples are not obtained due to unsuitable sampling techniques or mechanical failure of the drilling equipment shall be supplemented by another hole adjacent to the original hole at no additional cost to the Government.

18.3 Drive Sample Drilling and Sampling Using Split Spoon Sampler.

18.3.1 Sampling Equipment.

Sampling equipment shall conform to the requirements of ASTM D 1586.

18.3.2 Drilling and Sampling Procedures, Standard Penetration Test (ASTM D1586)

All drive sampling and associated drilling shall be accomplished with strict adherence to ASTM D1586. Every effort shall be made to ensure a clean hole prior to standard penetration tests. Casing, if used, shall not be driven deeper than 1 foot above the depth of the next interval to be sampled. If drilling fluid is used, the fluid shall be circulated long enough to assure a clean hole. For environmental drilling (at HTRW sites), the use of contaminating additives (drilling foams, organic gels, barite, etc.) in drilling fluids will not be permitted. The use of retainers such as trap valve, spring or lad sample retainer will be used if necessary. When refusal (as

defined by ASTM D 1586) is encountered, an attempt shall be made to identify the material causing refusal. This information shall be recorded on the drilling log. If refusal occurs above bedrock or prior to achieving the specified boring depth, the boring may be advanced by tricone roller rock bit, drag bit, side jetted fishtail or double tube core barrel. Representative samples of the material (including change of materials in same split spoon sample) shall be placed in pint sized glass sample jars and sealed airtight with moisture proof-lids. All casing shall be pulled and cleaned. However, should casing be required to be left in the hole, the costs in this situation will be negotiated for each delivery order.

18.3.3 Drilling Logs.

An approved field logger shall log all borings in the field as drilling progresses. The field logger shall sign each log. At a minimum the drilling form shall contain the following information:

- Project Name and location (i.e. city, town state etc.).
- Boring Number and coordinate location of each boring.
- Start date and completion date of each boring drilled including start time and end time for each day boring is drilled.
- Elevation reference datum.
- Name of drilling firm and name of field logger logging the hole.
- Total depth of hole and depth to groundwater.
- Standard penetration resistances per each 0.5 ft of drive.
- Unified soils classification and material description of each sample recovered as drilling progresses.
- Line demarcation of each change in material type and geologic formation.
- Brief description of the type of drill rig, method of advancing hole and, sampling equipment.
- Remarks of any problems or any unusual conditions encountered during drilling.

Geotechnical drilling logs at HTRW sites shall as a minimum include the following information:

- Odors.
- If required, Hnu/OVA measurements or other field screening or test results.

- Any observed evidence of contamination in samples, cuttings or drilling fluids.

The need for air monitoring (i.e. Hnu/OVA measurements) will be determined and Negotiated for each delivery order.

Three copies of each drill log (original and two copies) shall be sent to the C.O. within 10 days after drilling all holes has been completed. The cost for the field logger shall be included in the unit prices for advancing and sampling the holes.

Each soil type encountered in the boring shall be described in the drilling log form. For each split spoon sample, representative sample(s) shall be obtained for each type of material(s) encountered and described in the drilling log form. The depth at which the representative sample was obtained shall be recorded at the appropriate blank in the log. As a minimum, the material description shall include the following:

- Estimated Unified Soil Classification (including name and symbol).
- Consistency of cohesive soils or relative density of cohesionless soils (i.e. for cohesive soils; very soft, soft, medium stiff, stiff, very stiff, or hard. For cohesionless soils; very loose, loose, medium dense, dense, or very dense).
- Moisture content assessment (i.e. dry, slightly moist, moist, very moist, wet).
- Color.
- Structure (i.e. stratified, laminated, mottled, fissured, slickensided, lenses, homogeneous etc.).
- Grain size description (i.e. fine, medium, coarse).
- Other descriptive information (i.e. organic material, roots, wood, glass fragments, pieces of concrete etc.).

18.3.4 Sample Jars.

Sample jars shall be wide mouth, one pint in volume unless otherwise directed by the C.O. The lids shall be moisture tight screw tops. At a minimum, the sample jars should be permanently labeled with boring number, sample number, sample depth interval, and SPT blow counts.

18.3.5 Shipping Boxes.

Boxes in which the jar samples are stored and shipped shall be the original cardboard boxes with cardboard partitions. The boxes shall have a minimum capacity and strength for holding 12 sample jars with their contents. Each box shall be permanently labeled with the following information on each of the four sides of the box:

- Project Name
- Boring and Sample Numbers Contained in box
- Month and Year of Sampling
- Box number of total number of boxes containing samples collected (i.e. box 1 of 12, 2 of 12, 3 of 12 etc.).

18.4 Undisturbed Sampling Using Thin-Walled Tubes (ASTM D1587).

18.4.1 Undisturbed sampling shall be performed in strict accordance with ASTM D1587. The use of 3-inch or 5-inch outside diameter samplers may be required.

Borings from which undisturbed samples are obtained may be advanced using the techniques discussed in paragraph 18.1 above. Undisturbed samples will be pushed a distance of 2.0 feet unless otherwise directed. The driving of the sampling tube will not be permitted. The tube shall be advanced by hydraulic action upon the sampler (single continuous push). Undisturbed tube samples shall be stored and shipped vertically with “This End Up” labels.

18.4.3 Sample tubes containing cohesive soils shall be stored and shipped in a vertical position. These tubes will not be permitted to rest in a horizontal position at any time. The undisturbed samples must be protected from excessive heat, cold, vibration, and/or shock while in storage or shipment. The Contractor, at his expense, shall replace samples permitted to freeze, even partially. If the samples are in transit during freezing weather, the vehicle shall be heated and the samples stored in a heated building when not in transit.

18.5 VANE SHEAR TESTING (ASTM D2573)

Vane shear testing shall be performed in strict accordance with ASTM D2573. The vane shall be 2.5-inch diameter and be 5 inches long.

18.6 TEST PITS

Equipment to be furnished by the Contractor includes a backhoe or hydraulic excavator capable of excavating to the depths required in the work order. The contractor shall also provide an operator for the equipment. A minimum 2.0-foot bucket width is required. In general, shoring of the sides of the pit will not be required. A field logger will log the stratigraphy and the sides of the pit photographed with a rule tape reference. Grab samples may be required. These samples will be bag samples or jar samples at the discretion of the C.O. The cost for the field logger shall be included in the unit prices for digging test pits.

18.7 BACKFILLING

18.7.1 Borings.

Unless otherwise directed, borings shall be backfilled with drill cuttings. If directed, borings shall be backfilled with commercially available concrete sand or other suitable and approved granular materials or bentonite pellets. Backfill placed in borings drilled in overburden shall be tamped as backfilling is performed. If drilling mud was used instead of casing, it shall be pumped from the boring and properly disposed prior to backfilling. Costs related to disposal of contaminated soils will be negotiated as needed.

18.7.3 Test Pits.

Unless otherwise directed, test pits shall be backfilled using the excavated material. The backfill shall be tamped with the backhoe bucket and brought to grade and leveled out in order to bring the site as near as possible to pre-existing conditions. Disposition of excavated material for environmental (HTRW) test pits will be stipulated in individual delivery orders. Costs related to disposal of contaminated soils will be negotiated as needed.

19. BEDROCK DRILLING AND SAMPLING REQUIREMENTS

19.1 General.

Bedrock drilling shall be accomplished using standard double tubed core barrels and appropriate diamond bits. In general, bottom discharge diamond bits shall be required for coring. A split tube core barrel may be specified for those Delivery Orders requiring high recovery and minimum disturbance of rock core samples for testing.

19.2 Equipment and Supplies.

Equipment to be furnished by the Contractor for core drilling shall include core drilling machinery and accessories needed to take continuous rock cores consistent with the drill bit sizes and depths specified in each delivery order. The Contractor shall have the capability to obtain the following size cores: N-Size (1.875" minimum core diameter), H-Size (2.5" minimum core diameter) and, P-Size (3.345" minimum core diameter). The capacity of the core barrels shall not exceed 10.5 feet of core and shall be equipped with diamond set coring bits. The core barrels shall be double tube, swivel type meeting the standards established by the Diamond Core Drill Manufacturers Association. Either conventional or bottom discharge bits may be used depending upon the type and condition of the rock to be cored. Each delivery order will specify the size and type of core drilling required.

19.3 Procedure.

The overburden, if any, will be drilled in accordance with the Delivery Order and ASTM D 2113. In coring, the Contractor shall operate his drills at such speeds and with such drill and water pressures as will insure maximum core recovery. The Contractor shall exercise particular care in recording water losses, water color, cavities, soft drilling zones, rod jerks, and other unusual coring experiences which, supplementing the core record, will throw light on the nature and extent of any fracturing or other such weakness which may occur. Where soft rock or broken rocks are encountered, the Contractor shall reduce the lengths of runs to 5 feet or less in order to reduce core loss and core disturbance to the minimum. When drill water return is lost or is reduced significantly, drilling tools shall be pulled immediately, and the depth recorded both in the core box and on the log. Core barrels shall not be over filled. The core shall be removed carefully, and placed in the specified core boxes. Samples for laboratory testing shall be selected by the Contractor's field logger and packaged as specified in the delivery order and ASTM D 2113. At the option of the C.O., use of a split inner tube barrel shall be used for maximum recovery. Failure to comply with the foregoing procedures shall constitute justification for the C.O. to require redrilling at the Contractor's expense of any boring from which core recovery is unsatisfactory. All casing shall be pulled and cleaned. However, should casing be required to be left in the hole the costs in this situation will be negotiated for each delivery order.

19.4 Core Boxes.

Longitudinally partitioned wooden core boxes shall be used for all rock cores unless otherwise directed by the C.O. Boxes shall be constructed from 1-inch white pine, including partitions. The C.O. may approve other wood type when submitted appropriately. The core boxes shall be constructed and labeled as specified in Plates 6 through 9. The wood spacer blocks shall be labeled to show pull number (P-1), loss or gain (i.e. L-0.0 ft. or G-0.5 ft.), and bit depth (D-22.6 ft.). Depths shall also be labeled along the inner core box beside the spacers. Where core

samples are taken for laboratory testing, spacer blocks shall be placed at the top and bottom of the sample with the sample interval in the box labeled with the sample depth and sample number. The spacer blocks shall be cut to fit neatly and squarely within the partitions of the box. Blocks shall be nailed at their respective positions with No.4 finishing nails. In addition to the spacer blocks, the Contractor shall provide, as required, lengths of 2-1/8 x 1-1/8 inch wood, painted red on one side, which shall be marked with appropriate depths, and nailed in the proper positions in the box to show location and actual extent of voids or core losses.

19.5 Drilling Logs.

The Contractor shall use a field logger to log each hole as drilling progresses. In addition to the drilling log form requirements contained in Section 8.3.3, the drilling log form for rock core drilling shall include the following types of information:

- Type, diameter and length of core barrel, type of drill bit.
- Start and stop time of each core run.
- Bit pressure, hydraulic pressure, rpm of drill.
- Length of core run and length recovered.
- Approximate percentage of water loss.
- Measured depth to bottom of core run. This shall be marked on the drilling log with a short line in the remarks column at the respective depth then marked C.D. along with the numerical depth value.
- Rock Quality Designation.
- Core loss and core gain. Core loss is the difference between the length of core run and the length recovered. Core gain is obtained as a result of recovering more cores than drilled.
- Location of voids or unaccountable loss. The difference between current measured depth and computed depth (i.e. previous run measured depth check + length recovered) may be due to a possible void or loss of material due to grinding and wash out. Indicate on log the presumed depth at which a void or unaccountable loss may have occurred and the estimated thickness of the void or loss.

The bedrock core shall be described in accordance with standard geologic nomenclature including the following:

- Geologic Name and Lithology
- Relative hardness
- Texture
- Color
- Weathering
- Bedding
- Fractures, joints, bedding planes, and cavities. Including any filling material and whether open or closed.
- Other descriptive features (i.e. fossils, slaking/swelling properties, solution features, crystals, etc.).

The cost for the field logger to log the rock core holes and prepare the r rock core samples shall be included in the unit prices for drilling rock core borings

19.6 Bedrock Sample Preparation.

Bedrock samples that will be subjected to laboratory testing shall be prepared, packaged, and shipped as specified in the delivery order and ASTM D 2113.

19.7 Backfilling Rock Core Holes.

Unless authorized otherwise, all rock core borings shall be backfilled.

Bedrock voids due to rock

coring may be backfilled using commercially available concrete sand or other suitable and approved granular materials or bentonite depending on the requirements of the delivery order(i.e. bentonite pellets). Environmental (HTRW) drilling will generally require the use of bentonite for backfilling depending upon specific local and state EPA requirements and will be specified per Delivery Order.

19.8 Photography.

All bedrock cores shall be photographed in the field, immediately after recovery and in the laboratory prior to testing, using a digital camera. These photographs shall be taken in such a way that production of a good clear picture of the rock core will be obtained. Electronic digital image files shall be turned over to the C.O. and printed copies shall be included in the drilling and testing report upon completion of each Delivery Order.

20. PIEZOMETERS

20.1 General.

The contractor shall provide all equipment, labor, materials and services required to install piezometers. Piezometers will be open tube (observation well) type. The instruments shall be installed at the locations and to the depths specified in the Delivery Order. The construction and installation of the instruments shall be as specified herein and as detailed on the individual delivery order. A Schematic drawing showing the typical required piezometer installation is shown in Figure No.2 attached. Piezometers shall be installed in conformance with the procedures outlined in ASTM D5092. For each piezometer installed, the Contractor shall complete the "as built" piezometer construction drawing. The "as built" construction drawing shall be in the same general format and contain the same information as shown in Figure No.3 attached. The "as built" piezometer construction form shall be approved by the C.O. upon contract award. Each piezometer construction form shall be included in the drilling and testing report required to be submitted to the C.O. upon completion of the Delivery Order. The Contractor shall use a field logger to prepare the piezometer "as built" drawing as piezometer construction progresses and to perform function tests as described in Section 20.4. The cost for the field logger shall be included in the unit cost for piezometer installation. .

20.2 Placement Procedures.

It is essential that the instrument be installed in each hole immediately upon completion of drilling of the hole to prevent collapse of the wall or entrance of materials into the hole. Therefore, during the drilling of holes for piezometers and after completion of drilling, the Contractor shall maintain a positive head of water in the casing or hole. The slotted piezometer tip may be encased in a cloth burlap sack containing the specified filter material during installation. Placement procedures for piezometers placed in soil or in bedrock are discussed in the following two paragraphs. During the installation of each piezometer, the field logger shall record the elevation and depth of the piezometer tip or transducer, and the various other elements (i.e. filter material, bentonite seal, backfill material, riser pipe, protective casing etc.). Depth measurements shall be to the nearest 0.1-foot.

Maintaining a water level inside the casing above that outside the casing at all times is especially important in drilling piezometer holes in cohesionless materials so that the cohesionless materials will not flow up into the casing. If the casing has been carried to the bottom of the hole in soil, the casing shall then be gradually withdrawn from the hole and shall be refilled with the specified filter material and tamped in place. As the temporary casing is progressively removed the specified bentonite seal and backfill materials shall be placed. Non-shrinking cement grout (with 5% bentonite) shall be placed on top of the bentonite seal to the ground surface as shown on the attached piezometer schematic diagrams (Plates 14 and 16) for piezometers placed in soil frost groups F-1 and F-2 (gravel soils) according to FM 5-541 U.S. Army, 1986. For piezometers placed in frost susceptible soils (groups F-3 and F-4, FM 5-541), dry bentonite pellets or bentonite slurry shall be placed around the annulus of the protective steel casing from the frost depth to the ground surface. The rate of withdrawal of the casing during the filling operations shall be such that the level of the material being placed is always above the bottom of the casing. Placing sand and raising casing must be performed in short increments not exceeding 12 inches so as to avoid forming sand plug in the riser pipe. When placing an instrument tip in a material that will collapse as the casing is pulled, it is necessary to place the filter materials in the casing before the casing is raised. When an open tube piezometer tip is being lowered into the hole, a small excess head shall be maintained in the device to insure that a small amount of water will flow out of the tip. For Installations In Bedrock, the appropriate materials specified shall be placed up to 6 inches above the top of bedrock before the casing is pulled. The casing shall gradually be removed and replaced with the appropriate materials specified. In cases where grout is used as backfill, the grout is pumped into the casing taking care to insure that the grout is always above the bottom of the casing.

20.3 Protection of Piezometers.

Three-inch diameter steel posts equally spaced around each piezometer shall be anchored into concrete to protect the piezometers from vehicular damage. The protective posts shall be placed approximately 3 feet from the centerline of the piezometer riser pipe.

20.4 Testing.

After each piezometer is installed the Contractor shall test the piezometer to ensure that it is operational and produces accurate readings. For open tube piezometers, the piezometer installation shall accommodate a probe tip (0.03 inch diameter) of a M-760A water level indicator which when inserted into the piezometer riser pipe can be withdrawn without binding. Upon completion of each open tube piezometer the Contractor shall perform a rising or falling head permeability test for the purpose of determining the basic time lag or response time

of the piezometer. The Contractor shall determine the basic time lag using the procedures outlined in EM 1110-2-1908. The Contractor shall notify the C.O. 48 hours in advance of testing. If the test indicates that the instrument does not permit a free outflow of water, due to the fault or negligence of the Contractor, the instrument shall be abandoned and replaced by the Contractor at no expense to the Government. The field logger will be responsible for taking the readings and recording them on forms supplied by the Contractor and approved by the C.O.

21 SLUG TEST(ASTM D 4044)

The Contractor shall provide all materials, labor and, equipment needed to perform slug tests in accordance with ASTM D 4044. The Contractor's field logger will be responsible for recording the test data on forms approved by the C.O. at the time of award. Clear, legible copies of the field permeability test data forms shall be included in the drilling and testing report submitted to the Contracting Officer upon completion of the Delivery Order. The cost for the field logger shall be included in the unit cost for Slug Test", .

22. SPECIAL LAND DRILLING REQUIREMENTS

Land drilling may be in sloped areas or in areas where access is difficult due to vegetation (i.e. small trees, shrubs etc.) or soft ground. The Contractor shall provide a small bulldozer with operator if site conditions require the removal of small trees, shrubs and brush in order to clear a path to the drilling site. In addition, the Contractor shall have at least one skid mounted drill rig of suitable size to be set in sloped areas or areas of difficult access. Also, the Contractor shall have at least one drill rig mounted on an all terrain vehicle capable of traversing soft and uneven ground. An all terrain vehicle is described as that vehicle which is commercially available for the industry and contains either low-pressure tires or tracks that minimize damage and is capable of traversing soft and uneven ground.

23. SPECIAL RIVER/LAKE DRILLING REQUIREMENTS

23.1 Floating Plant Requirements.

Subsurface drilling and sampling will be performed in a variety of marine environments (marshes, rivers, harbors or open lake). Thus, the drilling barge or floating plant shall be of suitable size and have sufficient free board for the particular marine environment that explorations are to be performed in. The drilling barge or floating plant, tug boat, launch, skiff or motor boat shall conform to all of the safety requirements established by the U.S. Coast Guard and to the U.S. Army Safety and Health Requirements Manual, EM 385-1-1, dated October 1992. Prior to

the start of work, the drilling barge or floating plant shall be inspected by the Government to determine whether or not it meets the minimum requirements of these specifications.

Minimum Floating Plant Requirements for Harbor and Open Lake Drilling shall have an approximate working area of no less than 800 square feet, excluding the area over which the drill rig is mounted. The barge shall have at least two corner spuds; anchors alone will not be permitted. The spuds shall be capable of stabilizing the floating plant in a water depth of 40 feet. The spuds shall be capable of stabilizing the floating plant regardless of the type of lake bottom materials. A minimum freeboard of 2 feet is required. A safety rail of sufficient rigidity and size to adequately prevent personnel from falling overboard shall surround the drilling platform area. The floating plant can either be self-propelled or towed. It is not necessary that the towboat be present at the floating plant during drilling. However, a launch, skiff, or motor boat of sufficient size and horsepower to carry all personnel on the floating plant shall be present during drilling operations. Should it be necessary for the launch, skiff, or motor boat to leave the floating plant during drilling operations, a two-way radio shall be available both on the plant and the launch, skiff, or motor boat in case of emergency. The launch, skiff, or motor boat shall be used, as necessary, to transport the drill crew and Government personnel from land to the drill site and return. The Contractor may propose a floating plant that contains hydraulically or mechanically operated spuds capable of elevating the barge above the water surface. This operation, if required, shall be at no additional cost to the government.

Minimum Floating Plant Requirements for River, Creek, or Marsh Environments shall have a minimum working area of 300 square feet excluding the area on which the drill rig is mounted. Sufficient anchorage shall be provided to maintain stability of the floating plant during drilling operations. A minimum freeboard of 1 foot is required. A safety rail of sufficient rigidity and size shall be provided to adequately prevent personnel from falling overboard. The floating plant can either be self-propelled or towed. The towboat is not required to stand by the floating plant during drilling operations. However, a launch, skiff, or motor boat of sufficient size to carry all floating plant personnel shall be present during the drilling operations. Should it be necessary for the launch, skiff, or motor boat to leave the drilling operations, a two-way radio shall be present on both the floating plant and the launch, skiff, or motor boat in case of emergency. The launch, skiff, or motor boat shall be used, as necessary, to transport the drill crew and Government personnel to and from the floating plant.

23.2 Elevations For River/Lake Drilling.

The elevations to be used for all drilling work on the Great Lakes and associated rivers and harbors shall be based on the Low Water Datum (International Great Lakes Datum, IGLD-1985, above mean water level at Father Point, Quebec). For Lake Erie, LWD is 569.2; for Lake Ontario, LWD is 243.4, for Lake Superior,

LWD is 601.0; for Lakes Michigan and Huron, LWD is 577.4. Most harbors contain staffs or gauges, which indicate and/or record water levels.

For all explorations taken on a lake or river, the field logger shall obtain water elevations at least three times per day. Additional monitoring is required during obvious water level changes. Each reading shall be recorded, in the appropriate blank, on the drilling log form. The drill platform (barge deck) shall be recorded as 0.0 foot on the drilling log form. The elevation of the platform shall be calculated as follows: WS (water surface Elev.) = Low Water Datum + gauge reading, Elev.(depth 0.0) = WS + height barge deck above water surface.

24. SPECIAL DRILLING REQUIREMENTS (AT HTRW SITES)

24.1 Health and Safety Plan.

The Contractor may be required to develop health and safety plans for HTRW sites, which include physical and chemical hazards. Some sites may already have a health and safety plan already in effect in which case the Contractor will not be required to develop a separate one. In those instances the Contractor shall abide by the existing health and safety plan in effect (either developed by the Government or another Government Contractor). The need to develop a health and safety plan (for HTRW work) will be specified in the Individual Delivery Order. If required under the Delivery Order, the Contractor shall be responsible for developing a health and safety plan which meets the requirements of OSHA 29 CFR 1910.120 and U.S. Army Corps of Engineers, Safety and Health Manual, EM 385-1-1, 1992. The Contractor shall submit the health and safety plan to the C.O. For review and comments within 21 days of the notice to proceed. The Contractor shall allow sufficient time for review by the Corps of Engineers and other appropriate State regulatory agencies and the satisfactory resolution of any comments prior to the start of any drilling. The price for a Health and Safety Plan will be negotiated as necessary for each delivery order.

24.2 Protective Clothing.

The Contractor shall furnish all required protective clothing and associated supplies for their own employees as required under the site specific health and safety plan in effect. Protective clothing shall conform to the requirements of OSHA 29 CFR 1926 and EM 385-1-1, 1987. Protective clothing shall be provided for both Contractor personnel and Government personnel visiting or working at the drilling site.

24.3 HTRW Training Requirements.

All Contractor personnel working at an HTRW site shall have appropriate health and safety training as required in OSHA 29 CFR 1910.120. Training shall have been completed under an approved and certified OSHA health and safety training vendor. Copies of training certificates for all Contractor field personnel shall be submitted to the C.O. prior to the start of drilling activities.

24.4 Drilling And Sampling Requirements.

The Contractor is not responsible for the selection, packaging and shipment of environmental samples. However, the Contractor will be responsible for collecting geotechnical samples from the borehole. Environmental drilling requirements will be specified in the Individual Delivery Order. The drilling Contractor may be required to perform air monitoring (i.e. Hnu/OVA measurements) during drilling and sampling. The need for air monitoring will be determined in each delivery order.

24.5 Backfilling Holes

The Contractor shall backfill all borings other than monitoring wells after sampling is completed. The method of backfilling will depend upon the specific State and Federal government agency requirements at each site. Thus, specific backfilling requirements will be contained in the Individual Delivery Order. Backfilling could require the use of a grout mixture or bentonite to fill the hole. The Contractor shall provide all materials, labor, and supplies needed to backfill borings as required.

24.6 Disposal of Drill Cuttings

Depending upon the type and concentration of contaminants drill cuttings may require special handling and disposal by the Contractor. As drilling progresses drill cuttings may be temporarily disposed in a metal drum with lid. Representative samples of the cuttings may be analyzed on site or will be taken to a laboratory for chemical analysis by the Government. Depending upon the results of the chemical analysis, the drill cuttings may require special handling and disposal. The exact procedure for handling and disposal of contaminated cuttings will be established and negotiated for each Delivery Order. If the cuttings are found to be non-contaminated then the cuttings may be spread over the ground at the site or the Contractor may elect some other method of disposal at no additional cost to the government.

24.7 Decontamination Procedures.

The Contractor shall provide all equipment, labor, and supplies as required in the site specific health and safety plan for the decontamination of field personnel (including Contractor and Government personnel) and drilling equipment.

25. SAMPLE INVENTORY

The Contractor shall maintain a inventory of all samples and sample containers collected for each delivery order. The inventory shall be provided to the C.O. upon completion of drilling. The inventory shall identify the boring numbers and sample numbers contained in each container box.

26. LABORATORY TESTING

26.1 Sample Preparation and Shipment.

When laboratory testing is required the Contractor shall be responsible for preparation and shipment of samples to the testing laboratory. This includes the packaging of samples, making transportation arrangements, and all costs associated with transportation. Prior to shipment the samples shall be preserved in accordance to the applicable provisions under this contract. All samples shall be packaged so as not to damage samples in shipment to the laboratory.

26.2 Testing Standards.

All laboratory tests shall be performed in accordance to the applicable ASTM and RTH (U.S. Army Corps of Engineers Rock Testing Handbook) testing standards and procedures. The applicable testing standard for each test is presented in the attached bid schedule list for soil, rock, and concrete testing.

26.3 Laboratory Validation.

Testing laboratories shall be accredited in compliance with AASHTO R18 and ASTM D3740 for the following ASTM test procedures:

D421, D422, D4318, D427, D698, D854, D2217, D1557, D1883, D2166, D2434, D2435, D3080, D2216, D2850, D4767, D2922, D3017, D2487, D2488, and D5084.

26.4 Minimum Field Sample Size.

The Contractor shall be responsible for determining the quantity of sample needed to perform each laboratory test. If the amount of sample recovery specified

by the C.O. in the Scope of Work is insufficient for performing the specified laboratory tests, the Contractor shall inform the C.O. prior to the start of drilling.

27. DRILLING AND TESTING REPORT.

The Contractor may be required to prepare a report documenting the results of drilling, sampling and, laboratory testing. Each delivery order will specify whether or not the Contractor will be required to prepare a report. If a report is required, the report shall be submitted to the C.O. within 14 days of the completion of all drilling, sampling and, testing for the delivery order. Three (3) hard copies of the report shall be submitted along with the electronic file version of the report. Microsoft Office 97 shall be used to generate the electronic file version of the report. Drawings shall be in Microstation Version 7.0 Dgn file format, or shall have the capacity to be imported into Microstation Version 7.0. All text and drawings (both hard copies and electronic version) must be clearly legible. As a minimum the report shall contain the following:

- A brief narrative of the drilling and sampling equipment used, description of subsurface conditions encountered including soil and bedrock types, geology and groundwater conditions, any problems encountered during drilling and, types of laboratory tests performed for each delivery order.
- Drawings showing the plan of subsurface explorations.
- Field drilling logs that are clearly legible.
- Summary of laboratory test results including information required by the applicable testing standard.
- Actual laboratory test data including graphs, tables, forms and backup calculations performed.
- Copy of scope of work and government work order.
- A brief description of the QA/QC procedures for drilling, sampling and, testing.

28. SCHEDULES

The various products, along with supporting data and required number of copies, shall be delivered within the number of calendar days from the Notice to Proceed date as indicated in each delivery order. If for any reason the completion dates cannot be met, the Contractor shall advise the Contracting Officer by telephone and confirm by letter as to the reason for the expected delay. This

notification action must be submitted within 10 days prior to the required completion date for each item. A copy of this letter must also be attached to Eng. Form 93, Final Payment.

29. PAYMENT REQUEST

Payment requests or invoices shall contain the following information as a minimum: Project Title, Contract Number, Delivery Order Number, Invoice Number (or indicate FINAL PAYMENT), date of invoice, dates covered for each invoice, total contract amount with all modifications and amounts listed individually, amounts retained, amount remaining in the contract to be completed, certification of the invoice by a responsible individual of the firm, and any other pertinent information that will assist in review and processing. In addition, the invoice shall include a detailed breakdown/justification of all billing quantities such as days worked, days mobilized and demobilized, drilling footage for each hole (i.e. lineal footage of drive sampling, auger advance, Shelby tubes etc.). Mail payments requests promptly to:

US Army Corps of Engineers
Buffalo District
Attn: CELRB-TD-DE, Mr. Steve Golyski
Contract No. DACW49-99-D-0013
Delivery Order No.
1776 Niagara Street
Buffalo, NY 14207

30. MEASUREMENT AND PAYMENT

30.1 General.

The contract unit price for each item shall constitute full compensation for furnishing all plant, equipment, labor, per diem for drilling and logging personal, materials, and supplies, except as otherwise specified, and for performing all operations required for the completion of all work (including disposal of waste materials and site cleanup) included under that item as specified herein or directed by the C.O. Linear measurements (except as noted) for payment will be to the nearest foot based on total footage drilled. Measurements for items for which payment is provided will be made as specified under subsequent paragraphs applicable to those items. The Contractor shall preserve all field measurements and daily work records in good condition until the samples have been examined, accepted, and paid for. Payment will not be made for any hole when unsatisfactory samples, as determined by the C.O., are furnished. Specific compensation will be

made for each pertinent pay item actually required and performed without exception.

30.2 Mobilization and Demobilization of Drilling Personnel, drill rig, Equipment and Supplies

Payment for mobilization and demobilization will be made at the contract unit price for Item No.1 “Mobilization and Demobilization” which is the cost per mile for each drill rig, personnel including field logger and all support personnel and all support equipment including truck to transport equipment required for each Deliver Order. The final pay estimate will be made when all equipment has been removed from the site, the site has been restored to its original condition, and demobilization is complete. Mobilization and demobilization shall consist of actual mileage traveled between the Contractor’s point of origin and the work site for each Delivery Order. In the case of two or more sequential Delivery Orders conducted without intermediate return of equipment and personnel to the point of origin, mobilization and demobilization shall consist of actual mileage traveled without duplication.

30.3 Mobilization and Demobilization of Floating Plant and All Accessory Equipment (including tow boat, launch skiff/motor boat)

Payment for mobilization and demobilization of floating plant and all accessory equipment (including tow boat, launch skiff/motor boat), shall be at the contract daily rate for Item No.2 “Mobilization and Demobilization of Floating Plant (800 ft² or 300 ft²)”. Compensation shall be made for time spent mobilizing and demobilizing floating plant and accessory equipment from the point of origin to the project site for each delivery order. In the case of two or more sequential marine Delivery Orders conducted without intermediate return of equipment and personnel to the point of origin, mobilization and demobilization shall consist actual time spent moving equipment and personnel rounded off to the nearest half day.

30.4 Floating Plant for Harbor and Open Lake Drilling (800 Square Feet).

Floating plant (minimum 800 square feet) for harbor and open lake drilling shall be paid at the contract daily rate for Item No.3 “Floating Plant for Harbor and Open Lake Drilling (800 SF Floating Plant)” The daily rate shall include the cost for towboat and launch (skiff or motor boat) and operating personnel. Downtime attributed to weather as determined by the C.O. will be paid for at 50 percent of the contract daily rate. Downtime shall be measured to the nearest half day as determined by the C.O. Downtime attributed to mechanical failure (including drill rig, floating plant and accessory equipment) as determined by the C.O. will not be paid.

30.5 Floating Plant for River and Marsh Drilling (300 Square Feet).

Floating plant (minimum 300 square feet) for river and marsh drilling shall be paid at the contract daily rate for Item No.4 "Floating Plant for River and Marsh Drilling (300 SF Floating Plant)." The daily rate shall include the cost for towboat and launch (skiff or motor boat) and operating personnel. Downtime attributed to weather as determined by the Contracting Officer's Representative will be paid for at 50 percent of the contract daily rate. Downtime shall be measured to the nearest half day as determined by the C.O. Downtime attributed to mechanical failure (including drill rig, floating plant and accessory equipment) as determined by the C.O. will not be paid.

30.6 Advancing Boring through overburden using hollow stem augers or flight augers/other suitable methods with casing

Drilling using augers will be measured for payment on the basis of the linear feet actually drilled below the ground surface or lake/river bottom by auger methods in accordance with the specifications. Payment will be made at the contract price per linear foot for Item No.5(a.) "Advancing Auger Borings Using Hollow Stem Augers or Flight Augers With Casing, 4.5 inch I.D. or less or No.5(b.) "Advancing Auger Borings Using Hollow Stem Augers or Flight Augers With Casing greater than 4.5 inch I.D. up to 8.5 inch I.D." No separate payment shall be made for setting casing, mixing drilling mud or for sample containers. On land, if drilling is terminated due to refusal on bedrock prior to reaching a depth of 15 feet, payment will be made for 15 linear feet of drilling for that boring. On a floating plant, if drilling is terminated due to refusal on bedrock prior to reaching a depth of 20 feet below the mudline, payment will be made for 20 linear feet of drilling for that boring.

30.7 Advancing Boring through obstructions Using Roller Rock Bit or coring methods

Advancing borings using the aforementioned tools will be measured for payment on the basis of linear feet drilled by any of these methods in accordance with the specifications. Payment will be made at the contract unit price per linear foot for Item No.6 "Advancing Boring through obstructions Using Roller Rock Bit or Coring Methods." No separate payment will be made for setting casing, sample containers or the mixing of drilling fluids (mud).

30.8 Standard Penetration Test (ASTM D 1586)

Drive sampling will be measured for payment on the basis of each Standard Penetration Test performed in accordance with ASTM D 1586. Payment will be made at the contract price for Item No.7 “Standard Penetration Test (ASTM D 1586)”. The unit price will be determined by the depth of the final sampling interval for the test. No separate payment shall be made for setting casing or for sample containers. The cost of the field logger required to log the hole and prepare samples for shipment to a laboratory shall be included in the unit price for drive sampling.

30.9 Standard Penetration Test (ASTM D 1586) using 3.0 inch I.D. x 3.5 inch O.D. split-spoon

Drive sampling will be measured for payment on the basis of each Standard Penetration Test performed in accordance with ASTM D 1586. Payment will be made at the contract price for Item No.8 “Standard Penetration Test (ASTM D 1586) using 3.0 inch I.D. x 3.5 inch O.D. split-spoon”. The unit price will be determined by the depth of the final sampling interval for the test. No separate payment shall be made for setting casing or for sample containers. The cost of the field logger required to log the hole and prepare samples for shipment to a laboratory shall be included in the unit price for drive sampling.

30.10 Undisturbed Sample Recovery With 3 inch O.D. Thin-Walled Tube (ASTM D 1587).

Undisturbed sampling using a 3” O.D. thin-walled tube will be measured for payment on the basis of the total linear feet of sample recovered for each delivery order using “undisturbed” sampling methods in accordance with ASTM D 1587. Payment will be made at the contract price per linear foot for Item No.9 “Undisturbed Sample Recovery with 3” O.D. Thin Walled Tube (ASTM D 1587)”. Measurement will be to the nearest total feet of sample recovered for each delivery order. No separate payment will be made for setting casing, cost of tubes or liners, carton, wax, wood shipping boxes or other accessories required for sampling and preparation of samples for shipping. Payment for advancing the boring above and below the undisturbed sample(s) shall be covered by the appropriate designated pay item. The cost of the field logger required to log the hole and prepare samples for shipment to a laboratory shall be included in the unit price for undisturbed sample recovery with 3” O.D thin walled tube.

30.11 Undisturbed Sample Recovery With 5 inch O.D. Thin-Walled Tube (ASTM D 1587).

Undisturbed sampling using a 5" O.D. thin-walled tube will be measured for payment on the basis of the total linear feet of sample recovered for each delivery order using "undisturbed" sampling methods in accordance with ASTM D 1587. Payment will be made at the contract price per linear foot for Item No.10 "Undisturbed Sample Recovery with 5" O.D. Thin Walled Tube (ASTM D 1587)" Measurement will be to the nearest total feet of sample recovered for each delivery order. No separate payment will be made for setting casing, cost of tubes or liners, carton, wax, wood shipping boxes or other accessories required for sampling and preparation of samples for shipping. Payment for advancing the boring above and below the undisturbed sample(s) shall be covered by the appropriate designated pay item. The cost of the field logger required to log the hole and prepare samples for shipment to a laboratory shall be included in the unit price for undisturbed sample recovery with 5.0" O.D thin walled tube.

30.12 Vane Shear Tests (ASTM D 2573).

Payment for vane shear tests will be made on the basis of the number of successfully performed tests in accordance with ASTM D 2573. Payment will be made at the contract price for Item No.11 "Vane Shear Tests". No separate payment shall be made for setting casing. The cost of the field logger required to log the vane shear test data and prepare samples for shipment to a laboratory shall be included in the unit price for Vane Shear Tests.

30.13 Test Pits Excavation and Operator

Payment for excavating test pits will be based on the contract daily rate for Item No.12 "Test Pit Excavation and Operator" which cost shall include backhoe with operator, excavating, logging, sampling, photographing, and backfilling the pit. The cost of the field logger required to log the test pit and prepare samples for shipment to a laboratory shall be included in the unit price for Test Pit Excavation. The unit price used to determine compensation will be based on the type of excavator used as defined in Item No. 12.

30.14 Bulldozer and Operator

Payment for a bulldozer with operator to provide access to boring locations in wooded or otherwise difficult terrain shall be made based on the contract daily rate for Item No.13 "Bulldozer and Operator." Sufficient access to all boring and sampling locations shall be provided at the beginning of field operations to minimize interference with drilling and sampling operations.

30.15 Rock Core Drilling (ASTM D 2113), , N-Size (1.875” minimum core diameter).

Core drilling (vertical) for N-Size cores will be measured for payment on the basis of linear feet of hole actually drilled in rock in accordance with ASTM D 2113 . Payment will be made at the contract price per linear foot drilled for Item No.14(a.) “Rock Core Drilling(ASTM D 2113), N-Size.” No separate payment shall be made for setting casing. The cost of the field logger t required to log the rock core and prepare samples for shipment to a laboratory shall be included in the unit price for core drilling.

30.16 Rock Core Drilling (ASTM D 2113), H-Size (2.5” minimum core diameter).

Core drilling (vertical) for H-Size cores will be measured for payment on the basis of linear feet of hole actually drilled in rock in accordance with ASTM D 2113. Payment will be made at the contract price per linear foot drilled for Item No.14(b.) “Rock Core Drilling (ASTM D 2113), H-Size.” No separate payment shall be made for setting casing. The cost of the field logger required to log the rock core and prepare samples for shipment to a laboratory shall be included in the unit price for core drilling.

30.17 Rock Core Drilling (ASTM D 2113), P-Size (3.345” minimum core diameter).

Core drilling (vertical) for P-Size cores will be measured for payment on the basis of linear feet of hole actually drilled in rock in accordance with ASTM D 2113. Payment will be made at the contract price per linear foot drilled for Item No.14(c.) “Rock Core Drilling (ASTM D 2113)l, P-Size.” No separate payment shall be made for setting casing. The cost of the field logger required to log the rock core and prepare samples for shipment to a laboratory shall be included in the unit price for core drilling.

30.18 Piezometer Installation (Open Tube).

Payment for labor and materials associated with open tube piezometer installation will be based on the contract unit price for Item No.15 “Piezometer Installation (Open Tube)”. The cost per foot of piezometer installed shall include all required labor costs and material costs. Material costs shall include PVC riser pipe, PVC screen (slotted) pipe, bentonite seal, annular backfill materials, couplings, Protective steel cover, stamping (Piezometer ID on protective cover), concrete pad and, protective steel posts. Separate payment will be made for drilling the hole under the appropriate pay items for advancing borings No separate payment shall

be made for setting and pulling casing. The cost of the field logger required to prepare the “as built” piezometer drawing shall be included in the unit price for piezometer installation.

30.19 Slug Field Permeability Tests (ASTM D 4044).

Payment will be made based on the contract unit price for Item No.16 “Slug Tests (ASTM D4044)” The contract unit price includes the costs of labor including field technician required to record test data, equipment, and supplies needed to perform each field permeability test per hour as specified in the contract. No separate payment will be made for mobilization and demobilization of field technician will be made under than the original mobilization and demobilization of drilling equipment and drill crew for each work order. Separate mobilization and demobilization for the field technician will be made only when permeability testing will be required at a separate time interval from the work order original drilling activities.

30.20 Water Purchase for Decontamination or For Drilling Activities

Payment will be based on the contract unit price for Item No.17 “Water Purchase for Decontamination or for Drilling activities”

30.21 General Equipment Decontamination For HTRW Work.

Payment will be based on the contract unit price for Item No.18 “General Equipment Decontamination.” The contract unit price per hour consists of the cost of decontamination of all drilling and sampling equipment, drill rigs, tools, and field personnel which includes the cost of labor and supplies.

30.22 Backfilling Holes With Bentonite

Payment shall be at the contract unit price for Item No. 19 “Backfilling Holes With Bentonite Fill” which includes the costs per foot for labor and materials (bentonite pellets) to fill borings as required.

30.23 Backfilling Holes With Cement Grout.

Payment shall be at the contract unit price for Item No. 20 “Backfilling Holes With Cement Grout” which includes the costs per foot for labor and materials to fill any concrete or rock core borings with cement grout as required.

30.24 Groundwater Monitoring Well/Piezometer Abandonment.

Payment shall be at the contract unit price for Item No. 21(a.) for wells/piezometers which extend to depths of less than 15 feet and No.21(b) for wells/piezometers which extend to depths of greater than 15 feet. The unit price includes the costs per foot for labor and materials to remove the wells/piezometers and to backfill the well/piezometer holes with bentonite or grout in accordance with state and local well abandonment requirements.

30.25 Drilling Platform Setup on Floating Plant.

Payment for drilling platform setup on floating plant shall be at the contract unit price for Item No.22 “Drilling Platform Setup on Floating Plant”. The price shall include all labor costs (welder and helper), materials, supplies, and, equipment needed to construct a working drilling platform on floating plant.

30.26 Weather Related Delays (Floating Plant 800 ft2).

Payment for floating plant as it stands idle during inclement weather shall be at the contract daily rate for Item No.23(a.) for minimum 800 ft2 floating plant. This contract rate is at 50% of the normal productive daily rate for floating plant Items No.3.

30.27 Weather Related Delays (Floating Plant 300 ft2).

Payment for floating plant as it stands idle during inclement weather shall be at the contract daily rate for Item No.23(b.) for minimum 300 ft2 floating plant. This contract rate is at 50% of the normal productive daily rate for floating plant Items No.4.

30.28 Weather Related Delays (Drill Crew/Field Logger/Drill Rig)

Payment for a two man drill crew (head driller and helper), drill rig, and the field logger for unproductive standby time due to weather which prohibits work shall be paid at the contract unit price under Item No.24 “Weather related delays (drill crew/field logger/drill rig)”. Payment will only be made in situations where the drill crew, field logger, and drill rig are required to be on the project site and are unable to work due to inclement weather. weather related delays shall not be taken without the approval of the C.O.

30.29 Protective Clothing (For Geotechnical Work at HTRW Sites).

Payment will be based on the contract unit price for Item Nos.25 (a.) -(c.) “Protective Clothing.” The contract unit price shall be per person, per day, for the appropriate level of protection called for, and includes costs for providing all protective clothing, equipment, instruments and supplies.

30.30 NICET Certified Soils Technician, including equipment, for in-place density and moisture testing in accordance with ASTM D2922 and ASTM D 3017.

Payment will be made based on the contract unit price for Item No.26 “NICET Certified Soils Technician, including equipment, for in-place density and moisture testing in accordance with ASTM D2922 and ASTM D 3017” The contract unit price includes the costs of labor and equipment to perform the tests as needed. No separate payment for mobilization and demobilization of field technician will be made other than the original mobilization and demobilization of drilling equipment and drill crew for each work order. Separate mobilization and demobilization for the field technician will be made only when field density and moisture content determination will be required at a separate time interval from the work order original drilling activities.

30.31 Technician for miscellaneous field work

Payment will be made based on the contract unit price for Item No. 27 “Technician for miscellaneous field work”. The contract unit price includes the cost for technician labor when such labor is required and approved by the C.O. No separate payment for mobilization and demobilization of field technician will be made other than the original mobilization and demobilization of drilling equipment and drill crew for each work order. Separate mobilization and demobilization for the field technician will be made only when miscellaneous field work will be required at a separate time interval from the work order original drilling activities.

30.32 Field In Place CBR Test ASTM D 4429 (Reaction Load Supplied By Others).

Payment will be made based on the contract unit price for Item No.28 “Field In Place CBR Tests, ASTM D 4429, Reaction Load Supplied By Others” The contract unit price includes the costs of labor including field technician required to record test data, equipment minus the equipment supplying the reaction load (i.e. backhoe, truck etc.), and supplies needed to perform each field CBR tests. No separate payment for mobilization and demobilization of field technician will be

made other than the original mobilization and demobilization of drilling equipment and drill crew for each work order. Separate mobilization and demobilization for the field technician will be made only when field CBR testing will be required at a separate time interval from the work order original drilling activities.

30.33 Field In Place CBR Test ASTM D 4429 (Reaction Load Supplied By Contractor).

Payment will be made based on the contract unit price for Item No.29 “Field In Place CBR Tests, ASTM D 4429, Reaction Load Supplied By Contractor” The contract unit price includes the costs of labor including field technician required to record test data, equipment including the equipment supplying the reaction load (i.e. backhoe, truck etc.), and supplies needed to perform each field CBR tests. No separate payment made for mobilization and demobilization of field technician will be made other than the original mobilization and demobilization of drilling equipment and drill crew for each work order. Separate mobilization and demobilization for the field technician will be made only when field CBR testing will be required at a separate time interval from the work order original drilling activities.

30.34 Mobilization and Demobilization of Field Technicians

Payment for mobilization and demobilization of the field technician and all accessory equipment shall be at the contract unit price for Item No. 30 “Mobilization and Demobilization of field technicians” which is the cost per mile to transport a field technician to the project site for the performance of field tests for each delivery order. If field tests are to be performed during drilling operations then no separate mobilization or demobilization will be paid. In this case mobilization and demobilization costs for the field technician will be considered as part of the initial mobilization costs for the drilling rig and personnel Item No.1 for the delivery order. This mobilization and demobilization cost only applies for situations where field tests are to be done at a separate time interval from drilling activities which would require a separate mobilization or in cases when the delivery order only requires field tests to be performed and do not require any drilling equipment and drill crew.

30.35 Prepare Drilling and Testing Report.

Payment for preparation of the drilling and testing report required for completion of each work order shall be at the contract unit price for Item No. 31 “Prepare Drilling and Testing Report”. The costs for preparation of this report shall include all labor costs to prepare the report, costs for equipment and supplies,

clerical costs and, reproduction costs. The cost shall be a lump sum cost for each delivery order.

30.36 Laboratory Testing

Payment shall be at the contract unit price under Items No.32 thru No.52 for each test performed as described in the bid item list.

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SECTION E INSPECTION AND ACCEPTANCE

E-1. 52.0246-0004 INSPECTION OF SERVICES – FIXED PRICE

(a) *Definition:* "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Government may --

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may --

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of Clause)

E-2. 52.9046-4065 INSPECTION AND ACCEPTANCE

(a) Definitions. "Services," as used in this clause, includes services

performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(End of clause)

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SECTION F DELIVERIES OR PERFORMANCE

F-1. PERIOD OF SERVICES

This contract shall extend for a period of seven-hundred and thirty (730) calendar days from the date of contract award, unless sooner terminated under the terms of this contract, except that no Work Order shall be issued after the expiration of the contract.

F-2. 52.242-15 Stop-Work Order (Aug. 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either –

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if --

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of Clause)

F-3. 52.242-17 Government Delay of Work (Apr 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted

(1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or

(2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed --

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved; and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

(End of Clause)

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SECTION G
CONTRACT ADMINISTRATION DATA

G-1. INVOICES

Invoices shall be submitted in quadruplicate to the following:

Mr. Michael DeJohn
US Army Corps of Engineers
1776 Niagara Street, building #1
Buffalo, NY 14207-3199

G-2. PAYMENT

Payment will be made by:

USACE Finance Center
ATTN: CEFC-AO-P
5720 Integrity Drive
Millington, TN 38054-5045

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SECTION H SPECIAL CONTRACT REQUIREMENTS

H-1. 52.217-3 EVALUATION EXCLUSIVE OF OPTIONS (APR 1984)

The Government will evaluate offers for award purposes by including only the price for the basic requirement; *i.e.*, options will not be included in the evaluation for award purposes.

(End of provision)

H-2. 52.217-0009 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 1989)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years (1,825 calendar days).

(End of Clause)

H-3. 52.017-4051 EXERCISE OF OPTION (EXTENSION OF CONTRACT)

(a) The extension of the contract under the option, if exercised shall be for one each 365 calendar day periods.

(b) Such option shall be exercised thirty (30) days prior to the expiration of the current contract.

(c) In the event the Government exercises the option, the Schedule of Rates for the First Option Period, Second Option Period, and Third Option Period will be used.

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SECTION I CONTRACT CLAUSES

1. 52.202-1 DEFINITIONS (Dec 2001)

(a) Agency head or head of the agency means the Secretary (Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, unless otherwise indicated, including any deputy or assistant chief official of the executive agency.

(b) "Commercial component" means any component that is a commercial item.

(c) "Commercial item" means --

(1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and that --

- (i) Has been sold, leased, or licensed to the general public; or
- (ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in paragraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in paragraphs (c)(1) or (c)(2) of this clause, but for --

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. "Minor" modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of items meeting the requirements of paragraphs (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if --

(i) Such services are procured for support of an item referred to in paragraph (c)(1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed. For purposes of these services --

(i) Catalog price means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) Market prices means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

(7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(d) Component means any item supplied to the Government as part of an end item or of another component, except that for use in 52.225-9, and 52.225-11 See the definitions in 52.225-9(a) and 52.225-11(a).

(e) Contracting Officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(f) "Nondevelopmental item" means --

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (f)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (f)(1) or (f)(2) solely because the item is not yet in use.

(g) Except as otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

(End of Clause)

2. 52.203-3 GRATUITIES

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative --

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled --

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

3. 52.203-5 COVENANT AGAINST CONTINGENT FEES

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of Clause)

4. 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed \$100,000.

(End of Clause)

5. 52.203-7 ANTI-KICKBACK PROCEDURES

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause,

(1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

(2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C.51-58) (the Act), prohibits any person from --

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)

(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency Investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may

(i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or

(ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

(End of Clause)

6. 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C.423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub.L.104-106), the Government may --

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or
(2) Rescind the contract with respect to which --

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either --

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of Clause)

7. 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C.423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be --

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts --

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may --

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

8. 52.203-12 LIMITATIONS ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

(a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal action," as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.

(3) A special Government employee, as defined in section 202, Title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an

officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibitions.

(1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action --

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub.L.95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of

--

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice

provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(c) Disclosure.

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes --

(i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(d) Agreement. The Contractor agrees not to make any payment prohibited by this clause.

(e) Penalties.

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C.1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(End of Clause)

9. 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER

(a) *Definitions.* As used in this clause-

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means

"postconsumer fiber" defined by the U.S. Environmental Protection Agency (EPA) as-

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

"Printed or copied double-sided" means printing or reproducing a document so that information is on both sides of a sheet of paper.

"Recovered material," for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as "recovered fiber" and means the following materials:

- (1) Postconsumer fiber; and
- (2) Manufacturing wastes such as-
 - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - (ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.
- (b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.
- (c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of clause)

10. 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT

- (a) The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.
- (b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

11. 52.214-26 AUDIT AND RECORDS - SEALED BIDDING

- (a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- (b) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to-
 - (1) The proposal for the modification;
 - (2) The discussions conducted on the proposal(s), including those related to negotiating;
 - (3) Pricing of the modification; or
 - (4) Performance of the modification.
- (c) *Comptroller General.* In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause.
- (d) *Availability.* The Contractor shall make available at its office at all reasonable times the materials described in paragraph (b) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR). FAR Subpart 4.7, Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.
 - (1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.
 - (2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.
- (e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR 15.403-4(a)(1) for submission of cost or pricing data.

(End of clause)

12. 52.214-27 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost or pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if-

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if-

- (A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or
- (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.
- (e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid-
 - (1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and
 - (2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

(End of clause)

13. 52.214-28 SUBCONTRACTOR COST OR PRICING DATA -
MODIFICATIONS - SEALED BIDDING

- (a) The requirements of paragraphs (b) and (c) of this clause shall-
 - (1) Become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1); and
 - (2) Be limited to such modifications.
- (b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1(b) applies.
- (c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR subsection 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

(End of clause)

14. 52.214-29 ORDER OF PRECEDENCE - SEALED BIDDING

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications);
- (b) Representations and other instructions;
- (c) Contract clauses;
- (d) Other documents, exhibits, and attachments; and
- (e) The specifications.

(End of Clause)

15. 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) *Definitions.* As used in this contract -- *HUBZone small business concern* means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration. Service-disabled veteran-owned small business concern --

(1) Means a small business concern --

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C.101(2), with a disability that is service-connected, as defined in 38 U.S.C.101(16).

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. *Small disadvantaged business concern* means a small business concern that represents, as part of its offer that --

- (1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B;
- (2) No material change in disadvantaged ownership and control has occurred since its certification;
- (3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

Veteran-owned small business concern means a small business concern --

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C.101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern --

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(End of Clause)

16. 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause-

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of-

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns; and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-
 - (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns; and
 - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with-
 - (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns; and
 - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will-
 - (i) Cooperate in any studies or surveys as may be required;

- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
- (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):
 - (i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
 - (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
 - (iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating-
 - (A) Whether small business concerns were solicited and, if not, why not;
 - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
 - (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
 - (D) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (F) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (G) If applicable, the reason award was not made to a small business concern.
 - (iv) Records of any outreach efforts to contact-
 - (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
 - (D) Veterans service organizations.
 - (v) Records of internal guidance and encouragement provided to buyers through-
 - (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.
 - (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
- (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided-
- (1) The master plan has been approved;
 - (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and
 - (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor or subcontractor to comply in good faith with-
- (1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or
 - (2) An approved plan required by this clause, shall be a material breach of the contract.
- (j) The Contractor shall submit the following reports:
- (1) *Standard Form 294, Subcontracting Report for Individual Contracts*. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The

report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) *Standard Form 295, Summary Subcontract Report*. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

17. 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of Clause)

18. 52.222-3 CONVICT LABOR

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if --

(a)

(1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of Clause)

19. 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS
ACT - - OVERTIME COMPENSATION

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation [22.300](#)) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR [5.5](#)(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts*. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding \$100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of Clause)

20. 52.222-19 CHILD LABOR COOPERATION WITH AUTHORITIES AND REMEDIES

(a) *Applicability*. This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in-

- (1) Canada, and the anticipated value of the acquisition is \$25,000 or more;
- (2) Israel, and the anticipated value of the acquisition is \$50,000 or more;
- (3) Mexico, and the anticipated value of the acquisition is \$56,190 or more; or
- (4) Aruba, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Korea, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is \$169,000 or more.

(b) *Cooperation with Authorities*. To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations*. The Government may impose remedies set forth in paragraph (d) for the following violations:

- (1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.
- (2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.
- (3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.
- (4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph

(d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) *Remedies.*

(1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

(End of clause)

21. 52.222-21 PROHIBITION OF SEGREGATED FACILITIES

(a) Segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

(End of Clause)

22. 52.222-26 EQUAL OPPORTUNITY

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with

employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to --

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and

pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of Clause)

23. 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS

(a) Definitions. As used in this clause --

All employment openings means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Executive and top management means any employee --

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and

promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Special disabled veteran means --

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability --

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C.3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a person who --

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred --

- (i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or
- (ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed --

- (i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or
- (ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) General.

(1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as --

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- (iii) Rate of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C.3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C.4211 and 4212).

(c) Listing openings.

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings.

(1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall --

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

24. 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as --

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings.

(1) The Contractor agrees to post employment notices stating --

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of Clause)

25. 52.222-37 EMPLOYMENT REPORT ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on --

(1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

(3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.

(b) The Contractor shall report the above items by completing the Form VETS-100, entitled "Federal Contractor Veterans" Employment Report (VETS-100 Report)".

(c) The Contractor shall submit VETS-100 Reports no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause.

Contractors may select an ending date --

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The Contractor shall base the count of veterans reported according to paragraph(a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C.4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C.4212 to identify themselves to the Contractor. The invitation shall state that --

(1) The information is voluntarily provided;

(2) The information will be kept confidential;

(3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and

(4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C.4212.

(f) The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of clause)

26. 52.223-6 DRUG-FREE WORKPLACE

(a) Definitions. As used in this clause --

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C.812) and as further defined in regulation at 21 CFR 1308.11 -- 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall -- within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration --

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about --

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will --

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

(End of Clause)

27. 52.223-14 TOXIC CHEMICAL RELEASE REPORTING

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C.11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C.13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor owned or operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if --

- (1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C.11023(c);
- (2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C.11023(b)(1)(A);
- (3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C.11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- (4) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or
- (5) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt --

- (1) The Contractor shall notify the Contracting Officer; and
- (2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall --
 - (i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and
 - (ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items as defined in FAR Part 2, the Contractor shall --

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR [52.223-13](#), Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of Clause)

28 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory of Afghanistan controlled by the Taliban, and Serbia (excluding the territory of Kosovo).

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of Clause)

29 52.227-1 AUTHORIZATION AND CONSENT

(a) The Government authorizes and consents to all use and manufacture in the performance of any order at any tier or subcontract at any tier placed under this contract for communication services and facilities for which rates, charges, and tariffs are not established by a government regulatory body, of any invention described in and covered by a United States patent --

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with specifications or written provisions

forming a part of this contract or with specific written instructions given by the Contracting Officer directing the manner of performance.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold); however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of Clause)

30. 52.229-3 FEDERAL, STATE AND LOCAL TAXES

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties," as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax," as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of Clause)

31. 52.232-17 INTEREST

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C.1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of Clause)

32. 52.232-23 ASSIGNMENT OF CLAIMS

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C.3727, 41 U.S.C.15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of Clause)

33. PROMPT PAYMENT

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments.

(1) Due Date.

(i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments.

- (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section (14) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

- (ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraph (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

- (i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number

and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the

Government and the Contractor.

(5) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance

occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) Additional interest penalty.

(i) A penalty amount, calculated in accordance with paragraph (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late

payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii) (A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in paragraph (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments--

(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30th day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to

make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

34. 52.233-1 DISPUTES

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C.601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)

(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)

(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount request accurately reflects the contract

adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from
(1) the date that the Contracting Officer receives the claim (certified, if required); or

(2) the date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of Clause)

35. 52.233-3 PROTEST AFTER AWARD

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs

allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either --

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if --

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

36. 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION.

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace

or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of Clause)

37 52.242-13 BANKRUPTCY

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of government contract numbers and contracting offices for all government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of clause)

38. 52.243-1 CHANGES - FIXED PRICE Alternate I

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Description of services to be performed.
- (2) Time of performance (i.e., hours of the day, days of the week, etc.).
- (3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of Clause)

39. 252.243-7001 PRICING OF CONTRACT MODIFICATIONS

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR Part 31 and DFARS Part 231, in effect on the date of this contract, apply.

(End of Clause)

40. 52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of Clause)

41. 52.249-8 DEFAULT

(a)

(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to --

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or

(iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) of this clause).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate,

supplies or services similar to those terminated, and the Contractor will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

- (1) acts of God or of the public enemy,
- (2) acts of the Government in either its sovereign or contractual capacity,
- (3) fires,
- (4) floods,
- (5) epidemics,
- (6) quarantine restrictions,
- (7) strikes,
- (8) freight embargoes, and
- (9) unusually severe weather.

In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any

- (1) completed supplies, and

(2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract.

Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as on had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

42 52.253-1 COMPUTER GENERATED FORMS

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of Clause)

43 252.203-7001 SPECIAL PROHIBITION ON EMPLOYMENT

(a) **Definitions.** As used in this clause --

(1) **"Arising out of a contract with the DoD"** means any act in connection with --

(i) Attempting to obtain;

(ii) Obtaining; or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) **"Conviction of fraud or any other felony"** means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

(3) **"Date of conviction"** means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving --

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C.2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly --

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C.2408, the Government may consider other available remedies, such as --

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify --

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the

Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C.2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of Clause)

44 252.204-7003 CONTROL OF GOVERNMENT PERSONNEL
WORK PRODUCT

(a) **Definitions.** As used in this clause --

(1) **"Arising out of a contract with the DoD"** means any act in connection with --

(i) Attempting to obtain;

(ii) Obtaining; or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) **"Conviction of fraud or any other felony"** means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of ***nolo contendere***, for which sentence has been imposed.

(3) **"Date of conviction"** means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving --

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C.2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly --

- (1) Employing a person under a prohibition specified in paragraph (b) of this clause; or
- (2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C.2408, the Government may consider other available remedies, such as --

- (1) Suspension or debarment;
- (2) Cancellation of the contract at no cost to the Government; or
- (3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify --

- (1) The person involved;
- (2) The nature of the conviction and resultant sentence or punishment imposed;
- (3) The reasons for the requested waiver; and
- (4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C.2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of Clause)

45 252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED
SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)

(a) **Definitions.**

"Historically black colleges and universities," as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also means any

nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institutions," as used in this clause, means institutions meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C.1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C.1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term "small disadvantaged business," when used in the FAR [52.219-9](#) clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR [52.219-9](#) clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C.2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C.46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub.L.101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded --

(1) Protege firms which are qualified organizations employing the severely handicapped; and

(2) Former protege firms that meet the criteria in Section 831(g)(4) of Pub.L.101-510.

(f) The master plan approval referred to in paragraph (f) of the FAR [52.219-9](#) clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of Clause)

SECTION K
REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF
OFFERORS

- K-1. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION
- K-2. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
- K-3. TAXPAYER IDENTIFICATION
- K-4. CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS
- K-5. DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY
- K-6. SMALL BUSINES PROGRAM REPRESENTATIONS
- K-7. SMALL DISADVANTAGED BUSINESS STATUS
- K-8. CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS
- K-9. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS
- K-10. AFFIRMATIVE ACTION COMPLIANCE
- K-11. COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS
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SECTION K
REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS
OF OFFERORS

K-1. 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods of factors used to calculate the prices offered:

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory --

(1) Is the person in the offeror's organization responsible for determining the prices offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contradictory to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as an agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ (insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of clause)

K-2. 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989--

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

K-3. 52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

___ TIN:-----

___ TIN has been applied for.

___ TIN is not required because:

___ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

___ Offeror is an agency or instrumentality of a foreign government;

___ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

___ Sole proprietorship;

___ Partnership;

___ Corporate entity (not tax-exempt);

___ Corporate entity (tax-exempt);

___ Government entity (Federal, State, or local);

___ Foreign government;

___ International organization per 26 CFR 1.6049-4;

___ Other-----

(f) Common parent.

___ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

___ Name and TIN of common parent:

Name-----

TIN-----

(End of provision)

K-4. 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

K-5. 252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in

"nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

(End of provision)

K-6. 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (OCT 2000)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 561210.

(2) The small business size standard is \$6.0 million.

(3) The small business size standard for a concern which submits an offer in its own

name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations. (1) The offeror represents as part of its offer that it / / is, / / is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it / / is, / / is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it / / is, / / is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it / / is, / / is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it / / is, / / is not a service-disabled veteran-owned small business concern.

(c) Definitions. As used in this provision--

"Service-disabled veteran-owned small business concern"--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern--

(1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more

women.

(d) Notice. (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(6) [Complete only if offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It / / is, / / is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It / / is, / / is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.] The offeror shall check the category in which its ownership falls:

_____ Black American.

_____ Hispanic American.

_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

_____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

_____ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

_____ Individual/concern, other than one of the preceding.

K-7. 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)

(a) *General.* This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) *General.* The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either-

[] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

[] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:_____.*]

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall-

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

(End of provision)

K-8. 52.222-18 CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS

(a) *Definition.*

"Forced or indentured child labor" means all work or service-

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____

(c) *Certification.* The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

☐ (1) The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

☐ (2) The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(End of provision)

K-9. 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS
(FEB 1999)

The offeror represents that --

(a) ☐ It has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) ☐ It has, ☐ has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

K-10. 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that-

(a) It o has developed and has on file, o has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It o has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

K-11. 52.222-38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2001)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

(End of provision)

K-12. 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that-

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or
(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [*Check each block that is applicable.*]

☐ (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

☐ (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

☐ (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(End of provision)

K-12. AUTHORIZED NEGOTIATORS

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations:

Name	Title	Telephone Number
------	-------	------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

[List names, titles, and telephone numbers of the authorized negotiators].

K-13. REMIT TO ADDRESS

The bidder/offeror shall insert below the address to which all contract payments shall be mailed.

The Contractor shall notify the Contracting Officer, in writing, of any change to this address. A contract modification will be required.

In accordance with the "Prompt Payment" clause of this contract, any invoice which specifies a payment address differing from that shown above, will be returned without action.

SECTION L INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

- L-1. BID DEPOSITORY
- L-2. PLACE OF BID OPENING
- L-3. GOVERNMENT'S PRIVILEGE IN MAKING AWARDS
- L-4. INQUIRIES
- L-5. TYPE OF CONTRACT 52.0216-0001
- L-6. SERVICE OF PROTEST 52.0233-0002
- L-7. NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE
- L-8. DATA UNIVERSAL NUMBERING SYSTEM (DUNS)
NUMBER 52.0204-0006
- L-9. COMMERICAL AND GOVERNMENT ENTITY (CAGE)
CODE REPORTING 252.0204-7001
- L-10. REQUIRED CENTRAL CONTRACTOR REGISTRATION
252.204-7004
- L-11. PAYMENT FOR ELECTRONIC FUNDS TRANSFER –
CENTRAL CONTRACTOR REGISTRATION
- L-12. SOLICITATION DEFINITIONS - - SEALED BIDDING
- L-13. AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)
- L-14. FALSE STATEMENTS IN BIDS (APR 1984)
- L-15. SUBMISSION OF BIDS (MAR 1997)
- L-16. EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)
- L-17. LATE SUBMISSIONS, MODIFICATIONS, AND
WITHDRAWALS OF BIDS (NOV 1999)
- L-18. TYPE OF CONTRACT

- L-20 FACSIMILE BIDS
- L-21. PREPARATION OF BID
- L-22. CONTRACT AWARD - - SEALED BIDDING
- L-23. FAILURE TO SUBMIT BID
- L-24. ALTERATION
- L-25. AMENDMENTS PRIOR TO DATE SET FOR OPENING BIDS

SECTION L
INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L-1. BID DEPOSITORY

Hand carried bids must be deposited, prior to the time set for opening of bids, in the bid depository, Contracting Division, Building No. 1, 2nd Floor, Department of the Army, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207-3199.

L-2. PLACE OF BID OPENING

Bids shall be publicly opened in Conference Room C, Building No. 1, 1st Floor, Department of the Army, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207-3199.

L-3. GOVERNMENT'S PRIVILEGE IN MAKING AWARDS

The Government further reserves the right to make award of any or all schedules of any bid/offer, unless the bidder/offeror qualifies such bid/offer by specific limitation; also to make award to the bidder/offeror whose aggregate bid/offer on any combination of bid schedules is low. For the purpose of this Solicitation, the word "item" as used in the paragraph entitled "Contract Award," shall be considered to mean "schedule."

L-4. INQUIRIES

For information regarding this Procurement, write or call (Collect calls not accepted) Mr. Lorraine McMullen, Department of the Army, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207-3199 - Area Code 716 - Telephone Number 879-4249 .

L-5. TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Firm Fixed-Price contract resulting from this solicitation.

(End of Clause)

L-6. SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Chief, Contracting Division, Department of the Army, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207-3199.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.
(End of provision)

L-7. 52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE

(a) *Definition.* "Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) *General.*

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered non-responsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(c) *Agreement.* A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the trust territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

L-8. 52.204-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER
(JUN 1999)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

- (1) Company name.
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet

home page at <http://www.customerservice@dnb.com/>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

(End of Provision)

L-9. 252.0204-7001 COMMERCIAL AND GOVERNMENT ENTITY (CAGE)
CODE REPORTING

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code entered must be for that name and address.

Enter "CAGE" before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will --

(1) Ask the Contractor to complete section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code.

(End of Provision)

L-10. 252.0204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION

(a) Definitions. As used in this clause --

(1) "Central Contractor Registration (CCR) database" means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) "Data Universal Number System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) "Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) "Registered in the CCR database" means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)

(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

(End of Clause)

L-11. PAYMENT FOR ELECTRONIC FUNDS TRANSFER – CENTRAL CONTRACTOR REGISTRATION

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either --

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) *Contractor's EFT information.* The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment.* The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) *Suspension of payment.* If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) *Contractor EFT arrangements.* If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) *Liability for uncompleted or erroneous transfers.*

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for --

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and --

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(j) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

L12. 52.214-1 SOLICITATION DEFINITIONS--SEALED BIDDING (JUL 1987)

"Government" means United States Government. "Offer" means "bid" in sealed bidding. "Solicitation" means an invitation for bids in sealed bidding.

(End of provision)

L13. 52.214-3 AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and

date in the space provided for this purpose on the form for submitting a bid, (3) by letter or telegram, or (4) by facsimile, if facsimile bids are authorized in the solicitation. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

L14. 52.214-4 FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

(End of provision)

L15. 52.214-5 SUBMISSION OF BIDS (MAR 1997)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) (1) addressed to the office specified in the solicitation, and (2) showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

(c) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice.

(d) Facsimile bids, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

(e) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

L16. 52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

(End of provision)

L17. 52.214-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and--

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214-31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

(End of provision)

L18. 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm fixed-price contract resulting from this solicitation.

(End of provision)

L-19 52.214-12 PREPARATION OF BID

(a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.

(b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, bidders shall (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

(End of provision)

L20. 52.214-10 CONTRACT AWARD

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may-

(1) Reject any or all bids;

(2) Accept other than the lowest bid; and

(3) Waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.

(d) A written award or acceptance of a bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party.

(e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are

significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

L21. 52.214-9 FAILURE TO SUBMIT BID

Recipients of this solicitation not responding with a bid should not return this solicitation, unless it specifies otherwise. Instead, they should advise the issuing office by letter, postcard, or established electronic commerce methods, whether they want to receive future solicitations for similar requirements. If a recipient does not submit a bid and does not notify the issuing office that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

(End of provision)

L22. ALTERATION

Notwithstanding any other provision of this contract, Section L - "Instructions, Conditions, and Notices to Offerors", paragraph entitled "Contract Award--Sealed Bidding", subparagraph (c), the following phrase is hereby DELETED in its entirety:

"Unless otherwise provided in the Schedule, offers may be submitted for quantities less than those specified."

L23. AMENDMENTS PRIOR TO DATE SET FOR OPENING BIDS FAR 14.208

The right is reserved, as the interest of the Government may require, to revise or amend the specifications or drawings or both prior to the date set for opening bids. Such revisions and amendments, if any, will be announced by an amendment or amendments to this Solicitation. If the revisions and amendments are of a nature which require material changes in quantities or prices offered or both, the date set for opening proposals may be postponed by such number of days as in the opinion of the issuing officer will enable offerors to revise their offers. In such cases, the amendment will include an announcement of the new date for opening of proposals.

SECTION M
EVALUATION FACTORS FOR AWARD

- M1. ARITHMETIC DISCREPANCIES
- M2. F.O.B. DESTINATION
- M3. EVALUATION OF OPTIONS
- M4. BID MODIFICATIONS

SECTION M
EVALUATION FACTORS FOR AWARD

1. ARITHMETIC DISCREPANCIES (EFARS 14.406-2)

(a) For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies found on the face of the bidding schedule as submitted by bidders:

- (1) Obviously misplaced decimal points will be corrected;
- (2) In case of discrepancy between unit price and extended price;
- (3) Apparent errors in extension of unit prices will be corrected;
- (4) Apparent errors in addition of lump-sum and extended prices will be corrected.

(b) For the purpose of bid evaluation, the government will proceed on the assumption that the bidder intends his bid to be evaluated on the basis of the unit prices, the totals arrived at by resolution of arithmetic discrepancies as provided above and the bid will be so reflected on the abstract of bids.

2. F.O.B. DESTINATION

Any offer submitted on a basis other than f.o.b. destination will be rejected as non-responsive.

3. FAR 52.217-5 EVALUATION OF OPTIONS (JUL 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

4. BID MODIFICATION

If a modification to a bid based on unit prices is submitted, which provides for a lump sum adjustment to the total estimated cost, the application of the lump sum adjustment to each unit price in the bid schedule must be stated. If it is not stated, the bidder agrees that the lump sum adjustment shall be applied on a pro-rata basis to every unit price in the bid schedule.